

MINUTES OF THE REGULAR MEETING OF THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF METTAWA, ILLINOIS, HELD AT THE HOUR OF 7:30 P.M. ON JANUARY 17, 2017 IN THE RIVERWOODS ROOM OF THE RESIDENCE INN HOTEL, 26325 N. RIVERWOODS BOULEVARD, METTAWA, ILLINOIS

A. CALL TO ORDER

Mayor Urlacher called the meeting to order at 7:30 p.m.

B. ROLL CALL

Upon a call of the roll, the following were:

Present: Trustees Bohm, Brennan, Maier, Pink, Sheldon, Towne and Mayor Urlacher

Absent: None

Mayor Urlacher declared a quorum present.

Also present: Scott Anderson, representative of the firm of James Anderson Company, Village Attorneys Greg Smith and Jim Ferolo of Klein Thorpe & Jenkins, Ltd., Financial Consultant Dorothy O'Mary

C. APPROVAL OF MINUTES:

Board Meeting Minutes: December 20, 2016

The Village Board meeting minutes were reviewed. Trustee Pink had a correction on page 8 and Trustee Sheldon had a correction on page 14. Trustee Bohm had a word correction on page 13. Trustee Bohm moved and seconded by Trustee Sheldon that the minutes of the Board Meeting of December 20, 2016 be approved as revised.

Upon a call of the roll, the following voted:

Aye: Trustees Bohm, Brennan, Maier, Pink, Sheldon and Towne

Nay: None

Mayor Urlacher declared the motion carried and the minutes approved and be placed on file.

D. APPROVAL OF BILLS

1. Bills Submitted for Payment

Trustee Maier reported the total new amount for payment is \$1,407,696.93. Three additional invoices were added to the December's Treasurer's Summary Report and one invoice is being removed for questioning on the final cost. The Klein, Thorpe and Jenkins LTD legal expenses in the amount of \$12,139.00, Forest Builders for salting and plowing

in the amount of \$7,323.00 and B&F for building permits in the amount of \$225.00. The invoice for Forest Builders in the amount of \$3,314.22 is being removed from the approved invoices for further review.

Trustee Maier said this month's total amount includes an invoice for Peter Baker & Son in the amount of \$397,413.61. Chairman Maier has asked Dorothy O'Mary to hold the Peter Baker & Son check until the Village receives the related waivers. Trustee Maier declined the approval for the Forest Builders invoice in the amount of \$3,314.22. Trustee Maier has requested Trustee Towne to discuss with Forest Builders the cost involved to have placed the snow fence on the corner of St. Basil and determine the Village's revised invoice amount.

Trustee Bohm asked do we have any additional invoices from the Electoral Board challenge. Trustee Maier said the hotel room charge for the January 9th meeting is the only pending expense.

Trustee Maier said the Finance Committee would like to review the Home Rule Sales Tax. Trustee Maier asked that Administrator Irvin review this matter for next month's meeting.

It was moved by Trustee Maier and seconded by Trustee Brennan to approve payment of the bills.

Upon a call of the roll, the following voted:

Aye: Trustees Bohm, Brennan, Maier, Pink, Sheldon and Towne

Nay: None

Mayor Urlacher declared the motion carried.

E. TREASURER'S REPORT

Presentation of the Treasurer's Summary Report for the Month of December, 2016.

It was moved by Trustee Brennan and seconded by Trustee Bohm that the Board acknowledges receipt of the December's 2016 Treasurer's Summary Report approval and place it in the file.

Upon a call of the roll, the following voted:

Aye: All

Nay: None

Mayor Urlacher declared the motion carried.

F. COMMUNICATIONS AND PETITIONS FROM THE PUBLIC

G. COMMISSION AND COMMITTEE REPORTS FOR DISCUSSION, CONSIDERATION AND, IF SO DETERMINED, ACTION UPON

1. Finance Committee

a. Other Matters

Trustee Maier said the Finance Committee is considering doing some exploration on the Home Rule Sales Tax to create some additional revenue for the Village. The revenue would be used to support Village projects.

2. Public Works Committee

a. Update on the Potential North Village Water Main Extension

Trustee Towne said that 12 survey mailings were sent to the residents regarding their approval of the water main extension. The returned survey response number was very low. Another communication will be sent to these residences requesting their feedback regarding their participation in this project. The Village requires 8 or 9 residents to approve this project before moving forward.

Barrett Gobeyn at (521 S St. Marys Road) said he is very interested in the water main extension given he has been addressing water issues on his property for some time. Trustee Towne asked Mr. Gobeyn to speak with his neighbors to convey the benefit of participating in the water main project.

b. Update on the Right-of-Way Mowing Program for 2017

Trustee Towne said the Village will open the bids on the mowing program early March. Trustee Towne anticipates the final bidder with pricing will be presented at the March 21st Board Meeting.

c. Other Matters

Trustee Towne said he along with Trustee Pink have begun to assess the main intersections throughout the Village, to determine if they require a street light. The locations being considered are the major intersections and a few of the cul-de-sacs. The Village currently has 2 street lights and the electrical bill averages \$8 per light

fixture. The monthly costs are significantly low due to the LED lighting system. Trustee Towne said the lights are being considered to ensure safety throughout the Village.

3. Parks and Recreation Committee

a. Other Matters

Trustee Sheldon said the Committee recommends approving the Perfect Cut proposal in the amount of \$4,350 for the Whippoorwill Park. Trustee Sheldon mentioned this summer we cleaned the park, however, this proposal will continue to trim the canopies of the trees and allow room for new growth.

Trustee Sheldon said she will be meeting with Trustee Bohm to review the current proposals at hand for the stewardship programs relating to the Oasis Park and Whippoorwill Preserve.

4. Safety Commission

a. Status and Activity Update

Trustee Pink said she spoke with Libertyville Fire Protection District regarding resident address signs. One resident had inadvertently been omitted from receiving their home address sign. The sign has been ordered and will be placed outside the resident's mailbox.

Administrator Irvin, Mayor Urlacher and Trustee Pink met with the Lincolnshire Riverwoods Fire Department regarding signs for the residents south of Route 60. The Fire Chief will research the details regarding obtaining these signs. Trustee Pink said prior to the signs being delivered; the residents will receive a communication to determine if they are interested in the red address number placed next to their mailbox.

Trustee Pink said Administrator Irvin attended the 2017 BMW Meeting. During this meeting, it was discussed that all hard surfaces will be used for parking this year and no field properties be used. General parking will be directed throughout the surrounding towns.

b. Other Matters

Trustee Bohm asked if any communication was received from Sergeant Sara Balmes regarding Howe Security being granted access to the Sherriff's radio channel. Mayor

Urlacher said he spoke with the Sheriff and he said the channel has been encrypted. All prior users have also lost access to this channel. The Mayor added the Sheriff is currently advocating for Mettawa's request having written a letter to explore granting Howe Security a radio channel access.

5. Zoning, Planning and Appeals Commission Report

a. Other Matters

Village Attorney Smith said the ZPA has 2 applications to be reviewed on February 8th at the Hilton Garden Inn.

H. BUSINESS FROM THE BOARD FOR DISCUSSION, CONSIDERATION AND, IF SO DETERMINED, ACTION UPON:

1. Mayor's Report

a. Village Newsletter

Mayor Urlacher said the January Village Newsletter will be emailed to the residents by Friday of this week. The next newsletter will be completed in April.

b. Request from Tom and Franziska Lys Regarding Nektosha Way

Mayor Urlacher said the Village Board received a request from Tom and Franziska Lys regarding Nektosha Way.

Village Attorney Ferolo said the request received from the Lys' is for the Village to assume the maintenance for Nektosha Way. This request would result in terminating SSA #11, which is currently for the maintenance of the road.

Resident, Tom Lys (25300 N Nektosha Way) attorney, Jim Babowice from Trobe, Babowice & Associates, and LLC Lawyers said in 2009 the subdividers agreement included a provision which stated the Lys' and the Village could amend the underlying agreement. Two SSA's were formed to support Nektosha Way. SSA #10 was passed for the building of Nektosha Way and SSA #11 was formed to cover the maintenance of the road.

Mr. Babowice wanted to discuss the subdividers agreement on page 21, the public improvement constructed as part of SSA #10 will serve the subject property, the subject property being the Lys' property. The Lys' completed this improvement to serve their property. As a result, the Lys' are seeking a recommendation to amend the existing subdividing agreement given that other residents are requesting to utilize Nektosha Way. As stated in their letter to the Village Board, the Lys' are requesting

the Village to reimburse them for the expenses they have incurred during the years they have maintained the road, as well as ongoing maintenance. Mr. Babowice stated we need to differentiate between the public improvement paid by the Lys' and the easement because it is neither a dedicated street nor a vacation. The question concerns how we handle the public improvements which have been paid by the Lys relative to the black top driveway which is in the 1894 Barker easement.

Village Attorney Ferolo said he received this document back in 2013 by Mayor Ray. Attorney Ferolo has reviewed the subdividers agreement from 2009, the various associated SSAs, the title work and all documents that establish the Barker easement a public right-of-way. Even though the Lys' placed a black top driveway on the road, it is still a public right-of-way road. Attorney Ferolo had suggested that the Lys' talk with his neighbor regarding the maintenance to this road asking them to participate and create a new SSA. Attorney Ferolo read the subdividers agreement on page 21, that the improvement will be done to Village specifications with Village Engineer's approval. SSA 10 states the construction and installation of the public improvements pursuant to the Village specifications and accordance to the Engineering plans therefore approved by the Village Engineers dedicated to the Village for use by the public. SSA 10 said the purpose is to provide municipal service with minimum wide 20 feet, with a 33 feet wide public right-of-way to be used as a public street as Nektosha Way. SSA 11 also was written with the clarity of Nektosha Way being a public street. You cannot limit the use of the roadway to one property owner. The PUD was for this 8 lot subdivision. Nektosha Way was built by Mr. Lys' as a driveway not a road per Engineer Scott Anderson; driveways do not require building permits. Engineer Scott did not approve the road having been built. In 2013, Mr. Lys' lawyer Terry Wepler contacted the Village requesting the Village consider vacating Nektosha Way, due to Mr. Lys' road improvements. Attorney Ferolo also received a letter from the adjacent residents Bacci's lawyer indicating their intent to use the public right-of-way of Nektosha Way and objecting to any vacation of this right-of-way. Attorney Ferolo stated under Illinois statues in order to vacate a roadway; the roadway needs to be a public roadway. Since the adjacent neighbors had interest in the using Nektosha Way, the findings showed the road could not be vacated. Attorney Ferolo said Chicago Title concluded the property is a public right-of-away. The findings listed that in 1894, the Barker easement showed it is a public access that exists on someone else property. SSA 10, was meant for the cost of the building the road. SSA 11, which referred to the maintenance of the road if the development is completed on the 37 acres, would be paid by the 8 lots owners.

Attorney Ferolo said the Ly's letter is asking the Village to assume the road cost and maintenance under the recapture agreement that was promised but never done. The recapture section did not make it into the final approved documents. The Village cannot recapture the road, because the road was built substandard according to the Lys'. The road was not built in accordance to Village standards to any approved or recorded recapture agreement. Attorney Ferolo requested that the Mayor seek a

consensus from the Board if we need to terminate SSA 11 and take over the road or to maintain the status quo.

Resident, Tom Lys (25300 N Nektosha Way) said he is not asking the Village to give the Ly's the road. When they spoke with former Village Attorney Zimmerman, they were told they had to agree to SSA 10 and 11, or no permits would be issued to build their property. On page 21, it reads the Lys' and the Village will grant permission to any other residents who desire to use this road. The Lys' indicate they built the road with the Village's approval.

Trustee Towne said Public Works Committee looked at the road; the right-of-away, at 33 feet is a half street. The adjacent property owner was going to receive the other 33 feet. A standard road cannot be built on 33 feet and meet the requirements as a public street. All other properties within this subdivision have access to another road.

Resident Tom Lys said the road was built for the garbage trucks to be able to drive on the road. Village Attorney Zimmerman stated the Lys' needed to sign the two SSAs given they were the sole residents using this access road. The Lys' signed accordingly. Mr. Lys' did propose a recapture agreement but Village Attorney Zimmerman refused the change.

Village Attorney Ferolo clarified that the agreement does not state the Lys' issue permission to others interested in using this road. The Chicago Title states Nektosha Way is a public right-of-way. The Board has the right to amend this agreement.

James Babowice, said no third party would be made beneficiary allowed under the agreement stated on page 26. This is not a dedicated street. Relative to this agreement it's appropriate to make an amendment.

Trustee Towne said the subdivision is not being recorded because the Village is not collecting taxes on all 8 properties. Village Attorney Ferolo said in order to include all of the property owners within this subdivision, the current SSA#11 would need to terminate. However, with creating a new SSA the new residents being added have the right to oppose the new SSA. The result can conclude in the Village being liable to continue the maintenance costs to Nektosha Way because of the opposition.

Wendie Clark, resident, said if the road measures in certain areas 12 feet wide this road cannot support the additional subdivision owners. This road would need to be rebuilt to support all the residents.

Mayor requested the Trustees to vote on dissolving SSA 11 or status quo. Village Attorney Ferolo requested a motion to defer consideration to February Village Board Meeting.

It was moved by Trustee Brennan and seconded by Trustee Maier that the request from Tom and Franziska Lys regarding Nektosha Way be deferred to February's meeting.

Upon a call of the roll, the following voted:

Aye: All

Nay: None

Mayor Urlacher declared the motion carried.

c. Building Report

Mayor Urlacher thanked Village Engineer Scott Anderson for the monthly building report and said it would be placed on file.

d. Other Matters

e. Village Administrator's Report

Mayor said due to Administrator Irvin being ill nothing pressing needed to be addressed today. Administrator Irvin will provide an update in the February Meeting.

2. UNFINISHED BUSINESS

3. NEW BUSINESS

a. Approval of the Proposal from Perfect Cut Tree Services for Whippoorwill Park Tree Trimming and Removal in an Amount to Not Exceed \$4,350

It was moved by Trustee Bohm and seconded by Trustee Brennan approval of the proposal from Perfect Cut Tree Services for Whippoorwill Park Tree Trimming and Removal in an amount not too exceed \$4,350.

Upon a call of the roll, the following voted:

Aye: Trustees Bohm, Brennan, Maier, Pink, Sheldon and Towne

Nay: None

Mayor Urlacher declared the motion carried.

- I. EXECUTIVE SESSION**
- J. CALL TO RECONVENE**
- K. ROLL CALL**
- L. MATTERS REQUIRING ACTION ARISING AS A RESULT OF THE EXECUTIVE SESSION**
- M. ITEMS TO BE REFERRED**
- N. FOR INFORMATION ONLY**
- O. ADJOURNMENT**

With no further business to conduct, it was moved by Trustee Brennan and seconded by Trustee Sheldon that the meeting be adjourned.

Upon a call of the roll, the following voted:

In Favor: All

Opposed: None

Mayor Urlacher declared the motion carried and the meeting adjourned at 8:51 p.m.

Village Clerk, Sandy Gallo