



**MINUTES FOR VILLAGE OF GILBERTS
BOARD OF TRUSTEES MEETING
Village Hall: 87 Galligan Road, Gilberts, IL 60136
Meeting Minutes
Tuesday, September 1, 2020**

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

President Zirk called the meeting to order at 7:00 p.m. He proceeded to lead those present in the Pledge of Allegiance.

2. ROLL CALL / ESTABLISH QUORUM

Deputy Village Clerk Phillip Versten called the roll. Members present: Trustees Kojzarek, Corbett, Allen, Zambetti, Farrell, Hacker, and President Zirk. Staff present: Village Administrator Brian Bourdeau, Deputy Village Clerk Phillip Versten, Intern Riley Lynch. On telephone: Village Engineer Al Stefan, Public Works Director Aaron Grosskopf, and Village Attorney Julie Tappendorf. Others present: Mr. Mertz Mertz of Gilberts Development, LLC. Public present: Daniel Pace, Justin Redfield, Tom Trier, and Evon Ferdinand (phone).

3. PUBLIC COMMENT

Tom Trier of Pub 72 thanked the Board for extending outdoor dining to December 7th and asked whether outside space can be enclosed, such as by an enclosed tent, and how such a space would be considered relative to the State's Covid-19 spacing guidelines. Administrator Bourdeau said he would look into this and confer with Mr. Trier.

Daniel Pace stated he is here to reiterate his question from 3 weeks ago in which he asked whether the Village would be at least risk if no permits at all were allowed until all the previously promised work was completed. He recounted separate instances since 2016 wherein Trustee Hacker expressed concerns with requests for more permits, while there was a lack of progress at the Conservancy. He asked who, in the case of a law suit, would be liable.

Justin Redfield, a resident of the Conservancy for four-and-a-half years, stated that while it seems not much has been done, shutting down the Conservancy would not be in anyone's best interest. He said has been trying to push for the development of parks in his neighborhood over the past few years, having met with a prior Village Administrator in 2018 in an effort to move the parks forward. He since came to understand that nothing in the Conservancy will move forward until the water situation is resolved. He noted that, based on his review of recent Board meetings, forward progress seemed pretty dire based on the numbers presented by the Village engineer a couple weeks ago, but that on Sunday

night he opened up the meeting notes and saw the revised calculations. He said he wants to know why the capacity calculation for number of homes that can be serviced went from 140 to 524 over that time based on current plant readings. He believes the Village is unnecessarily delaying progress of the development by not issuing enough permits to secure bonds. He opined that this is a significant difference and it points to water having been available the whole time, and that the delays are based on false numbers.

President Zirk stated that Mr. Mertz has not been held back and that he has had a plat for the next phase for over a year. He stated that the Village hasn't slowed that down, and the Village Board has done everything it is obligated to do. Mr. Mertz's engineers and the Village engineer are working together to identify ways to increase capacity to grant permits to keep the development going. He noted there is currently an over-sale of capacity in that we may have more capacity than we thought, but we certainly do not have enough to meet what is planned. He noted that, at this point, both engineers agree that the correct capacity calculation on the number of homes that can be serviced is currently 524. He said the Board's challenge is in granting enough permits to enable financing for progress in the development. He said the question becomes whether there is adequate progress. He said the Board is not obligated to offer any additional permits. Mr. Mertz has been granted permits, received funding as a result and, had he built what he was supposed to, we wouldn't be having this conversation. President Zirk then agreed that shutting it down, while reducing risk, benefits no one and stated that it's easier to get this done if Mr. Mertz completes it and the Village doesn't have to pick up the pieces.

Trustee Kojzarek objected to previous comments during these public comments suggesting that if the Village of Gilberts does not approve any permits for the Conservancy, there's no negative affect for Gilberts. His reasoning is because the Conservancy is part of Gilberts. He said the Board is trying to do everything it can to help the project while looking at the bigger cause-and-effect picture.

Daniel Pace expressed concern in regard to project scheduling. President Zirk stated that the timing of project financing is not always in lock step with the timing of infrastructure placement and the building of roads, and so on, and that some of those financial obligations have to be met first in order for those other things to happen.

4. CONSENT AGENDA

- A. A Motion to approve Minutes from the August 18, 2020 Village Board Meeting
- B. A Motion to approve Bills & Payroll dated September 1, 2020
- C. A Motion to Approve a Request by Pub 72 to Allow Live Entertainment as part of its Outdoor Dining use at 38 E. Higgins Road on Multiple Dates in September, October, November and December 2020
- D. A Motion to Approve a Request by Cruisin to Allow Live Entertainment as part of its Outdoor Dining use at 11 Galligan Road on September 5, 2020

President Zirk asked if any of the board members wished to remove any consent agenda items for separate consideration, including the revised minutes from the August 18th Board meeting. After hearing none, he asked for a motion to approve.

A Motion was made by Trustee Zambetti and seconded by Trustee Kojzarek to Approve Consent Agenda Items 4A-D as presented. Roll call vote: Trustees Hacker, Kojzarek, Corbett, Allen, Zambetti, and Farrell voted Aye. 0-nays, 0-abstained. Motion carried.

5. ITEMS FOR APPROVAL

A. A Motion to Approve Resolution 23-2020, a Resolution Authorizing and Approving the Release of a Limited Number of Building Permits in the Conservancy Development

President Zirk provided background on the resolution, including a recent meeting onsite at the water plant that included designing engineer Jeremy Lin, staff engineer Al Stefan, and members of Village staff, wherein they examined various ideas and processes and concluded there is a real possibility for increased output beyond what has been. He said that, as a result of recent discussions, we can report to the IEPA that we are an 1,100 gpm facility, and discussion regarding the question of are-we-going-to-run-out-of-water should be based on that number. He stated that, in his subsequent conversations with Mr. Stefan, Mr. Lin and Administrator Bourdeau, he stressed that the Board must address the separate questions of how many permits to grant to keep the Conservancy going, what is our real risk, and that they should be able to do this based on the real capacity numbers.

Mr. Stefan added that, as a result of their discussion, they recognized that the plant could run at a slightly higher capacity than what it was rated for.

President Zirk stated that the Board now has to set the number of permits it is comfortable granting and determining some parameters for that discussion is what Trustees Corbett and Hacker have been working on.

Trustee Corbett summed up the resolution currently before the Board and walked them through the logic of how he and Trustee Hacker arrived at the numbers. He said the resolution tonight has very specific numbers regarding when things should be started and ended, and if any of the defined milestones aren't met, we can rescind any permits that haven't been pulled. The resolution also provides for the Village Administrator to get a status report once per month to help us track progress relative to the milestones.

Trustee Hacker added that, through the exercise of measuring the water, they discovered that there was more capacity than they thought. He expressed concerns about over clocking the water plant and added that he would be ok with that as long as the manufacturer of the related equipment is ok with it. He suggested the best answer to his question would come from the manufacturer and that, given the age of the other pumps, it's important to get pumps 5 and 6 on line to establish the redundancy.

Trustee Farrell clarified that, counter to some of the statements in the public comments from tonight, it is not a question of whether the Village is withholding permits, but the concern is more properly about whether Mr. Mertz is doing the work. She went on to read the resolution aloud for the benefit of all those in attendance, so that all can understand the number of permits being considered for granting, as well as the expected milestones, with dates and timelines, and the penalties for not meeting those milestones. She stated that a date should be added to the resolution which would indicate when the Village requires well #6 to be operational.

Mr. Mertz indicated that his original request was for more permits than the current draft resolution provides for. He asked whether the Board could consider the original 368 based on the finding that the water system can sustain more water capacity than previously thought.

Trustee Zambetti expressed concern about the lack of progress at the Conservancy in recent years and whether, with this new finding that we have had more capacity than we previously thought, we may have contributed somewhat to it. President Zirk stated that the obligation to build to capacity is Mr. Mertz's and that he is not entitled to capacity until he builds the plant. Trustee Zambetti asked what the \$9 million from Neumann homes was for. Administrator Bourdeau indicated he will contact the Village Attorney to ask her to summarize the issue.

Mr. Mertz said he has a specific ask tonight, that he not to be limited to 95 permits as that would limit the opportunity for the foreseeable future. He asked the Board to consider his original request for 364 or 368 permits.

President Zirk asked whether anyone wanted to make a motion to approve or amend the resolution.

Trustee Kojzarek said the engineers are in agreement on the timelines and the water capacity, so maybe we should look to amend the resolution in regard to the number of permits at various milestones in the plant-building process and that Mr. Mertz should be provided with everything he needs to build houses once he completes the plant-building process. This should eliminate Mr. Mertz having to come back month after month, asking for the next thing. Trustee Hacker stated that he is not in favor of giving Mr. Mertz anything of our margin. He could see giving Mr. Mertz some additional permits relative to the adjusted capacity numbers, but we should not give any of the permits that make up our margin. Trustee Kojzarek said that, once the wells and plant are built out, we'll have the added capacity and we should account for that in the number of permits assigned in those milestones.

Trustee Corbett noted that all of the calculations done previously were based on the capacity we thought we had at the time and that they are extremely conservative numbers in light of the new found capacity, on which the IEPA's 80% is figured, so there is room to grant more permits at each milestone. He said his question to staff is, given all the changing numbers regarding PE and other factors, are these numbers going to change again?

Mr. Stefan recounted the history of water treatment, plant capacity and so on, indicating there are always variables such as how people use water, weather and temperatures, the status of the aquifer, and others. He stated it's hard to arrive at an exact number due to all the variables affecting our decisions at any point in time, but that we went with what the well was rated at, and that his initial analysis was pretty much a conservative broad stroke estimate.

Then the conversation turned to dates indicated in the timeline in the resolution.

Administrator Bourdeau offered clarification. Within the milestones in the resolution, F flows into G and, in Engineer Jeremy Lin's timeline, the May date represents the point at which the physical building and all of the equipment is to be ready for install, so there is a timeframe between point F and point G in the resolution which would correspond to the actual installation of the equipment in the plant.

Discussion and debate followed in regard to how we got to where we are with tonight's resolution. Discussion included what Mr. Mertz originally proposed, how we estimated original capacity, how we used those numbers to arrive at a number of permits to plug into a new timeline that would be placed in a resolution to guide progress, and ultimately whether, with new findings regarding capacity, what recalculations would be appropriate to help ensure Mr. Mertz's progress.

President Zirk summed it up by saying we're all pretty much talking about the same thing. He said Mr. Mertz agrees that giving him the 60 permits and the 35 permits as the two steps to get to 95 permits are fine with him, but when Mr. Mertz gets the structure complete and the material delivered, Mr. Mertz would like us to give him up to the 320, and that will let him keep going until the plant is complete. If he doesn't get it done by the time we target for completion, then the Village reclaims the permits.

President Zirk stated that the resolution would be amended with the addition of the appropriate dates, the 44 additional permits at stage two, the third tranche being added when the building structure and the equipment are in place, making available up to up to 320 permits, with the rescinding provisions if Mr. Mertz is not done by the completion date.

A Motion was made by Trustee Kojzarek and seconded by Trustee Farrell to Approve, as Amended, Resolution 23-2020 Authorizing and Approving the Release of a Limited Number of Building Permits in the Conservancy Development.

Roll call vote: Trustees Kojzarek, Corbett, Allen, Zambetti, and Farrell voted Aye. Trustee Hacker voted nay, 0-abstained. Motion carried.

6. ITEMS FOR DISCUSSION

There were no items for discussion at this time.

7. STAFF REPORTS

Village Administrator Bourdeau

- The Splash Pad will be closing in a week's time.
- Our only Movie-in-the-Park this year will take the form of a one-time drive-in event at Town Center Park some time in mid to late September. More info to come.
- Administrator Bourdeau and Finance Director Fischer have been working on a proposal for our share of the Cares Act funding, and the County has bumped that deadline to September 11 and that was part of a joint effort directed in part by Metro West.

Public Works Director Aaron Grosskopf

- No report at this time.

Deputy Clerk Phillip Versten

- No report at this time.

8. TRUSTEE REPORTS

Trustee Farrell

- Trustee Farrell reported that staff did a very good job of getting the Fishing Derby together. It had a tremendous turnout and all COVID-19 protocols were followed. The only complaint she heard concerned why event registration couldn't be on line.

9. PRESIDENT'S REPORT

- No report at this time.

10. EXECUTIVE SESSION*

An executive session did not take place.

11. ADJOURNMENT

There being no further public business to discuss, **a Motion was made by Trustee Allen and seconded by Trustee Kojzarek to adjourn from the public meeting at 8:58 p.m.** Voice vote carried unanimously.

Respectfully submitted,



Phillip Versten
Deputy Village Clerk