

## APPROVED MINUTES

### Village of Gilberts Committee of the Whole Meeting Minutes April 13, 2010

#### **Call to Order / Pledge of Allegiance**

President Zirk called the meeting to order at 7:08 p.m. He proceeded to lead those present in the Pledge of Allegiance.

#### **Roll call / Establish quorum**

President Zirk asked Village Clerk Meadows to call the roll. Roll call: Members Present: Trustees Erbeck, Clark, Zambetti, Farrell, Garcia and President Zirk. I-absent: Trustee Mierisch. Others present: Administrator Keller, Finance Director Blocker, Chief Building Inspector Swedberg, Chief of Police Williams, Attorney Tappendorf and Village Clerk Meadows. For members of the audience please see the attached list.

#### **Minutes to be considered**

President Zirk asked if anyone had comments with respect to the Board minutes dated March 23, 2010 and April 6, 2010. There were no comments. The minutes will be placed on the next consent agenda.

#### **Ordinances/Motions/Resolutions/Proclamations for consideration**

#### **Consideration of Ordinance 07-2010, an Ordinance amending Ordinance 04-16, a special use permit for the Fraternal Order of Eagles' facility at 325 Raymond Drive.**

Administrator Keller reported that in 2004 the Village approved a special use permit to allow the Eagles to operate an 11,000 square foot facility with a parking lot and athletic field on the subject property. They requested an amendment to their special use permit that would allow them to operate Sunday through Thursday 6:00 a.m. to 12:00 a.m. (midnight) and Friday and Saturday 6:00 a.m. to 2:00 a.m. the following day.

Administrator Keller went on to report that the expanded hours would allow the Eagles to expand their business operations by opening earlier in the mornings to host funeral brunches, business meetings, and other revenue-generating activities.

Administrator Keller reported that over the past several years there have been some complaints from the residents. Most of the complaints were related to noise coming from the athletic field.

Administrator Keller reported that during the Plan Commission meeting Trustee Mierisch and several residents brought up concerns about the facility itself. Some of the questions were regarding a notice from the Health Department, sanitary sewer tap, trip generations, landscaping and lighting concerns.

Administrator Keller stated that the Board Members should have received an email which included the exhibits provided at the Plan Commission meeting. Administrator Keller stated that most of the exhibits are not directly related to the Eagles request.

Administrator Keller discussed the notice from the Kane County Health Department. He noted that the inspection was a standard inspection. The Eagles received a positive report.

In addition he had contacted Kane County Department of Transportation and they did not feel the expanded hours of operations would have an impact on the Tyrrell and Raymond Drive intersection.

There was also an issue with the installation of lighting by the horseshoe pit. Chief Building Inspector Swedberg will be working with the Eagles on this matter.

Administrator Keller noted that the Plan Commission Finding of Fact included language that prohibits any changes to or structures built on the athletic field without prior amendment to the amended special use permit.

Administrator Keller reported that the Eagles have objections to the Plan Commission's recommendation and Mr. Rick Hayden on behalf of the Eagles was in attendance to discuss their concerns.

Mr. Hayden stated that he would like to discuss the option for the Eagles to withdraw their petition.

Mr. Hayden reported that they went before the Plan Commission to request to expand their business hours and to limit the hours of the athletic field. The Plan Commission spent two and half hours on this issue of which two hours were spent on the athletic field hours.

Mr. Hayden reported that he had presented the Plan Commission's recommendation to the Eagles Board. It was the Board's opinion that the Plan Commission's recommendations were unacceptable.

Mr. Hayden went on to report since the Plan Commission meeting he has met with President Zirk and Administrator Keller to explain the Eagle's position.

Mr. Hayden provided a summary of the community organizations that use the club's facilities and the various charitable organizations that the Eagles support.

Mr. Hayden reported the Eagles are willing to compromise. However they can not accept or compromise on the Sunday restriction of the athletic field.

Mr. Hayden recommended that the location of the athletic field be defined.

Mr. Hayden reported that the Eagles are willing to compromise on the athletic field hours. They propose Monday – Friday noon-8:00 p.m and Saturday-Sunday noon – 5:00p.m. Mr. Hayden went on to say that the hours would only apply to organized sport teams and would not include set-up and clean-up activities. The Eagles also reserve the right to maintain the field during the restricted hours. In addition, members events and casual use would be allowed within the restricted times. The balance of their property would have the same hours as their business license.

Mr. Hayden reported that the Plan Commission set the hours of business as requested in their petition. However, they restricted the hours on the Eagles outdoor patio. He reported that the restricted hours were unacceptable. The Eagles requested that the outdoor patio hours be the same as their business license.

Mr. Hayden reported that the Plan Commission's recommendation on the landscaping requirements was unacceptable. It is the Eagles contention that they do not abut to any residential property. He went on to report that financially the Eagles can not comply with the recommendation. If the Board Members were to agree with the Plan Commission's recommendation the Eagles would have to withdraw their petition. President Zirk reassured Mr. Hayden that the Eagles could withdraw their petition at any time prior to the Board voting on the matter.

Mr. Hayden addressed the concerns with respect to the noise coming from inside the facility. The Eagles would agree to have someone monitor the area to ensure the neighbors are not disturbed.

Administrator Keller provided the Board with a summary of the differences between the Eagles request and the Plan Commission's recommendation.

Trustee Zambetti asked if there were members who also belonged to organized sports organizations. Mr. Hayden replied yes. However, when he refers to members use he is not referring to members that are a part of an organized sports program.

Trustee Garcia asked for clarification on the term organized sports programs. Mr. Hayden replied if the Eagles were to organize a baseball team that would be considered an organized sports program and would need to comply with the field hours. However, if members organized a pick-up game they would not need to comply with the field hours.

President Zirk commended Plan Commission Chairman Cullotta for doing a great job sifting through all the information brought before the Plan Commission. He went on to remind everyone that the discussion on allowing the Eagles Club to exist in the Village has long past. The question is the hours of operations.

Trustee Garcia acknowledged the positive impact the Eagles has on the community. He went on to express concerns with the restrictive hours of the field use. Trustee Garcia was in favor of making the hours less restrictive. He did agree with the indoor operating hours as recommended by both the Plan Commission and the Eagles.

Trustee Garcia recommended the field hours be Monday through Friday 10:00 a.m. - dusk and Saturday through Sunday 10:00 a.m.-5:00 p.m.

President Zirk asked the Board Members to consider the question of the berm and landscaping requirements. President Zirk noted that both the staff and the Plan Commission recommended that the Eagles install the landscaping as required in the Zoning Code.

Mr. Hayden provided the Board Members with pictures of the berm in question.

Trustee Garcia recommended that the Eagles provide the Board with a financial plan depicting the time frame in which they could comply with the landscape requirements.

Mr. Hayden agreed to draft a financial plan. However, due to the economic times he could not guarantee they could comply with the plan.

Trustee Garcia expressed concern with item #6 on the Plan Commission's Finding of Fact. He noted that if you wanted to achieve an athletic environment you need to be allowed to construct things like back stops as long as they are aesthetically pleasing. Trustee Farrell agreed.

Trustee Farrell inquired about the distance from the field to the residential area. She was wondering if the distance was similar to the distances found in Gilbert's Town Center. The Board Members confirmed the distances were similar.

Trustee Farrell noted that the request for the amendment to the Eagles special use permit was just to expand their operational hours. She was unsure on how the conversation became focused on field use, landscaping and other issues. Administrator Keller reported that procedurally when you have an amendment to amend a special use it does open the door for negotiation.

Trustee Farrell noted that the Plan Commission had restricted the use of the field. She agrees with Trustee Garcia with respect to the operational hours of the field. However, she thought that maybe Sunday should be noon-5:00 p.m. She noted that all the park hours should be consistent.

Trustee Farrell questioned the current hours of the outdoor patio area. Mr. Hayden suggested that the patio area have the same hours as the business. Trustee Farrell asked if the Eagles intended to have any entertainment in the patio area. Mr. Hayden reported that in the past they have had bands or DJ's. However they point the speakers in the opposite direction of the residential area and abide by the decibel limitation as prescribed in the Noise Ordinance. Trustee Erbeck noted that this use is currently allowed. Mr. Hayden reported that they have had on average one event with music a year.

Trustee Zambetti discussed his concerns with past misrepresentations by the Eagles. He does want to work with the Eagles. However, he is sympathetic to the residents adjacent to the facility.

Trustee Zambetti pointed out that when the residents purchased their homes the Eagles property was vacant and zoned agricultural.

Trustee Clark stated that originally when the Eagles came before the Board they agreed to construct a \$30,000 sign and agreed to the landscaping requirements. However, less than two weeks after finalizing the special use permit the Eagles came before the Board to ask for relief from the landscape requirements due to the financial burden.

Trustee Clark stated that the field use times discussed earlier were workable. However he recommended closing the fields at dusk and for Sundays he agrees with noon-5:00 p.m.

Trustee Clark would like to see the Eagles enhance the berm. Mr. Hayden stated that he had no problem adding additional plants to the berm. However, he could not commit to a goal. Trustee Clark would like to see some language included in the petition requiring additional landscaping that is realistic and affordable.

Trustee Clark also agreed with allowing the Eagles to construct back stops, goal posts, and baseball diamonds without prior amendment to the amended special use permit.

Trustee Erbeck agreed with the Board Members that the landscaping needs to be enhanced. He noted that when the Eagles first approached the Board the sign was slated to be the Eagles big corner stone. Trustee Erbeck recommended the Eagles contact the local sign company.

Trustee Erbeck stated that for enforcement purposes he recommends the field hours are from sun up to sun down which is the time all the Village parks open and close. In addition, he believes the outdoor patio hours should be the same as their regular business hours.

Trustee Erbeck asked if in the future the Board Members could receive copies of the Plan Commission Minutes prior to the meeting. Village Clerk Meadows apologized. She reported that the minutes were sent very late in the day via email.

Trustee Erbeck agreed with the Board Members that the Eagles should be allowed to construct back stop, and ball fields, as long as they comply with the Village Ordinance and the structures are not a nuisance to the surrounding neighbors. He went on to say that he is not in favor of a berm. In his opinion the berm has the potential for creating drainage concerns.

There was some discussion about the recommendation from the Plan Commission requiring the Eagles to install landscaping along the south and east property lines consistent with the requirements set forth in the amended Zoning Code. Mr. Hayden stated that the Eagles are willing to enhance the property adjacent to the residential area.

Trustee Erbeck would like to see the Eagles draft a landscape plan. Trustee Garcia agreed.

The Board Members discussed what the Eagles would be allowed to construct on the field. The consensus of the Board was to amend the language in item number six to say "if it requires a building permit the Eagles would need to amend the amended special use permit".

President Zirk discussed in length the exhibits that were presented at the Plan Commission.

Chief Building Inspector Swedberg reported the Eagles did plant the required trees.

President Zirk asked if the Eagles were providing staff with the sanitary sewer system inspections. Chief Building Inspector Swedberg reported that he did receive the initial six month inspection report. However, he has not received a report since. Mr. Hayden will make sure Chief Building Inspector Swedberg receives the reports.

There was some discussion with respect to the Noise Ordinance. Attorney Tappendorf reminded the Board Members of a past discussion addressing some of the inconsistencies in the Village Noise Ordinance. She reported that State Statute would preempt the Village's Noise Ordinance and if anything within the Village Ordinance is stricter than State Statute it is not enforceable. President Zirk recommended that the Village Noise Ordinance be amended. Attorney Tappendorf believe the Ordinance has been added to the list of Ordinances that need to be amended.

President Zirk discussed the Tyrrell Road and Raymond Drive intersection improvement agreement. He noted that upon expiration of the agreement it was unclear who received the \$35,000.00. Mr. Hayden believed the money would come back to the Eagles. Administrator Keller stated that this was one of the agreements staff would need to examine closer. The Board concurred that this matter was not part of the special use scope and could be addressed at a later date.

President Zirk stated that the Board could take the position to only address the expansion of the Eagles operational hours. Or inject requirements to prohibit any of the other concerns brought forward.

A lengthy discussion ensued on whether to require the Eagles to comply with the landscaping requirements.

President Zirk recommended that Administrator Keller meet with the Eagles and draft a plan that both parties can live with.

**Consideration of Ordinance 09-2010, An Ordinance amending Section 14.4 "Public Water Supply Fee Schedule"**

Administrator Keller stated that staff recommends updating the Village Code to reflect the Village's taking control of the water and wastewater facilities. The Board Member discussed the staff recommendation to amend the language in section 14.4 of the Village Code. The Board was not in favor of adding any new fees. However, they were in favor of the penalty fees. Staff will draft a revised Ordinance and this matter will be place on the next Committee of the Whole Agenda for discussion.

**Consideration of Ordinance 09-2010, an Ordinance amending the FY-2010 Budget**

President Zirk asked if there were any questions on Ordinance 09-2010. The Board Members had no questions at this time. This matter will be placed on the next Board Agenda.

**Consideration of Ordinance 10-2010, an Ordinance approving the FY-2011 Budget**

President Zirk asked if there were any comments on the FY-2011 proposed budget. Administrator Keller reported that in his overview memo he has included a number of one time expenditures for a possible inclusion in the FY-2011 budget. The expenditures could be paid for by transferring funds from Municipal Impact Fees. President Zirk recommended the department heads bring back the optional expenditures in thirty days. There being no further comment, this matter will be placed on the next Board Agenda.

**Consideration of Resolution 12-2010R, a Resolution authorizing an amendment to an agreement with Illinois American Water for Operations, Maintenance and Management Services**

Administrator Keller reported that approval of this resolution would authorize the Village President to sign an amendment to the current agreement with Illinois American Water for the operation of the Village's water and wastewater facilities.

President Zirk asked if there were any comments on the resolution. There were no comments. This matter will be placed on the next consent agenda.

**Consideration of Resolution 13-2010, A Resolution Opposing a Proposed Reduction Local Government Distributive Funds.**

Administrator Keller reported that staff recommended approval of the draft resolution, which expresses the Villages opposition to the 30% reduction in Local Government Distributive Funds proposed by Governor Quinn. President Zirk asked if there were any comments on the resolution. There were no comments. This matter will be placed on the next consent agenda.

**Consideration of Resolution 14-2010, a Resolution authorizing an agreement with Baxter & Woodman for a Utility GIS Development**

Administrator Keller reported that the proposed project would result in a comprehensive map and inventory of the Village's water, sanitary, and storm sewer systems and road.

President Zirk asked if there were any comments on the proposed resolution. There were no comments. This matter will be placed on the next consent agenda.



**Consideration of Resolution 15-2010, a Resolution authorizing an agreement with Baxter & Woodman for a Pavement Management Report**

Administrator Keller reported that Baxter & Woodman has prepared a work order for developing a five-year street repair program, which would be used for planning and prioritizing future road projects.

President Zirk thought this would be a useful tool in assisting the Village in prioritizing the road repairs.

There being no further comments it was noted that this item will be placed on the next consent agenda.

**Consideration of Resolution 16-2010R, a Resolution authorizing an agreement with Baxter & Woodman for Negotiations with Environmental Advocacy Groups for the Water Reclamation Facility Expansion**

Baxter & Woodman Engineer, Carl Fisher, explained the purpose of entering into negotiations with the Environmental Advocacy Groups.

There being no further discussion it was noted that this item will be placed on the next consent agenda.

**Staff reports**

Finance Director Blocker reported that an outstanding irrigation invoice has now been paid.

Village Clerk Meadows reported that the Village now has seventy two facebook fans.

**Board Reports**

Trustee Erbeck reported that the YMCA, Grizzlies and the Renegades have donated five hundred pounds of grass seed. Chief Building Inspector Swedberg and the Public Works Employees will be over seeding the parks.

**President's report**

President Zirk reported that he had sent an e-mail asking for comments on commission reappointments. He has received comments from one Trustee. He reminded the Trustees if they have comments to please forward them.

President Zirk reported that Engineer Fisher has suggested some remedies for stormwater and drainage concerns in the Dunhill Subdivision. Engineer Fisher provided a brief historical overview of the area. He will return in a few weeks to discuss this matter in more detail.

**Executive Session**

**A motion was made by Trustee Erbeck and seconded by Trustee Garcia to close a portion of the meeting to the public, effective immediately with no business to follow as permitted by 5ILCS 120/2 (c) (2) Collective negotiating matters, 5ILCS 120/2 (c) (1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Village and by 5 ILCS 120/2 (c) (21) to review and approve closed session minutes.** Roll call: Vote: 5-ayes: Trustees Erbeck, Clark, Zambetti, Farrell and Garcia. 0-nays, 0-abstained. Motion carried.

The Board Members along with Administrator Keller, Attorney Tappendorf and Village Clerk Meadows went into Executive Session at 9:43 p.m. and returned to the public meeting at 10:03 p.m. Roll call: Trustees Erbeck, Clark, Farrell, Zambetti, Garcia and President Zirk.

There being no further business to discuss, a **motion was made by Trustee Erbeck and seconded by Trustee Clark to adjourn from the public meeting.** Roll call: Vote: all ayes by unanimous voice vote. Adjournment time: 10:04 p.m.

Respectfully submitted,

Debra Meadows

# SIGN IN SHEET

(Please Print)

COTW

4/13/2010

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