

ORIGINAL

VILLAGE OF GILBERTS  
VILLAGE BOARD MEETING

July 28, 2009  
7:30 p.m.

APPROVED MINUTES

**CALLED TO ORDER:**

Village President Zirk called the meeting to order at 7:33 p.m. President Zirk led those present in the Pledge of Allegiance.

**ROLL CALL/ESTABLISH QUORUM**

President Zirk directed Clerk Meadows to call the roll in order to establish a quorum. Clerk Meadows proceed to call the roll. Members present: Trustee Erbeck, Clark, Mierisch, Zambetti, Farrell, Garcia and President Zirk. Others present Administrator Keller, Attorney Tappendorf, Engineer Kanthack, Finance Director Blocker, Police Chief Joswick, Chief Building Inspector Swedberg and Acting Village Clerk Meadows. President Zirk declared a quorum present. (See attached list for the members of the public).

Administrator Keller left the meeting briefly.

President Zirk directed Clerk Meadows to pass around a sign in sheet in which any member of the public wishing to address the Board could sign in and he would call their names during the Public Comment portion of the meeting.

President Zirk stated he would entertain a motion to modify the Village Board Agenda to include between items 2 and 3 presentations from Tyler Creek Properties and Illinois American Water.

**A motion was made by Trustee Clark and seconded by Trustee Erbeck to amend the Agenda as noted.** Roll call: Vote: 6-ayes: Trustee Erbeck, Clark, Mierisch, Zambetti, Farrell and Garcia. 0-nays, 0-abstained. Motion carried.

**PRESENTATIONS CONTINUED**

**Tyler Creek Properties-John Luczynski**

Trustee Farrell stated she does prefer to digest the information before commenting. However, she noted that emergency access from the north end down from Route 72 and McCornick is critical and that from day one, emergency vehicles must be able to access that area. This matter has to be resolved.

President Zirk asked if the construction to the bridge was going to be completed in phase one.

Trustee Garcia stated he has concerns with the limited parking in the multi-family developments. The situation would be similar to the one that exist in Timber Trails and has been an issue. He recommends additional parking be made available. Mr. Luczynski stated that he will draft an exhibit depicting the parking.

Trustee Garcia asked if Mr. Luczynski could include in phase I the construction of the bridge which was discussed earlier. Mr. Luczynski stated that it is half to dozen of one.

Trustee Garcia asked if Mr. Luczynski would consider providing the Village with the infrastructure to assist the Village in reaching the Big Timber and Route 72 corridor and, in addition, enter into an agreement that would assist the Village with developing lands further to the west. Mr. Luczynski stated their plans would provide the Village access to the corridor. Basically the Village is one property away.

Trustee Garcia asked Mr. Luczynski how he could guarantee that all parties will comply with the development agreement. Mr. Luczynski stated that if any one parties fails to comply they default on the agreement.

Trustee Garcia stated the sprinkler requirement is a very serious issue and Mr. Luczynski has stated the requirement would be a deal breaker. However, would they still offer sprinkler systems as an option? Mr. Luczynski stated yes.

President Zirk stated he had a couple of questions for Mr. Luczynski.

President Zirk asked if the Board Members were comfortable with the 9 acre park being the standard and the understanding that the balance of that is a ball field.

President Zirk discussed the phasing of the roads. He stated you have to have access to the homes. Mr. Luczynski agreed that the overlay would have to be completed.

President Zirk questioned the commercial site and the flex option. He stated in his option with 2400 roof tops there will be a need for some neighborhood type of commercial. Mr. Luczynski stated that there just saying the commercial would not come for seven to ten years.

President Zirk went on to say in the annexation agreement he wants to keep the cross access point there. In addition, he would like to see the easement allocation be a demand in the agreement. President Zirk does not want to see the one acre parcel hold the development hostage.

President Zirk discussed traffic movements that he would like included in the traffic study. Mr. Luczynski stated that the traffic movements President Zirk noted is included in the traffic study.

President Zirk discussed his concerns with orphan parcels. He asked Mr. Luczynski if while in the process of developing the plans he would show what could happen with the orphan parcels. Mr. Luczynski stated he could.

President Zirk wants to ensure that there is language included in the annexation agreement to protect the Village and the development moving forward if anyone of the developers were to go bankrupt. Mr. Luczynski agreed and went on to say he does not believe there are any mortgagees outstanding.

President Zirk asked Mr. Luczynski to draft a set of architectural plans and use the plans as the exhibit instead of the design standards. President Zirk stated that the plans would establish a visual benchmark. If a new developer was to take over the project they would have the right to ask the Board to approve alternate plans. Trustee Erbeck noted that this was an issue noted in the December memo. Mr. Luczynski stated that they would take a look at drafting example plans. However, he has concerns with copy right issues.

President Zirk stated with respect to the sprinkler issue he is opposed to the use of sprinklers. President Zirk went on to say that he has witnessed more water damage from sprinklers than fire damage if the builder used the masonry wall panels in the multi-family units.

President Zirk discussed the proposed expansion of the wastewater treatment plant. He noted that the numbers he has shows that the Tyler Creek Developments would be consuming 80% of the capacity. President Zirk noted that when Tyler Creek Development is using 80% of the capacity he has a problem with reserving the PE and the Village not being able to sell the PE to anyone else. Mr. Luczynski stated that the formula used by the EPA is not realistic in reality the development's estimated PE is at 65%.

President Zirk stated that he and Mr. Luczynski have reached a middle ground with respect to this matter.

If Mr. Luczynski would produce an agreement that would have a mechanism in which Tyler Creek Properties will annually pre-pay for the construction of the treatment plants. In addition, the agreement would waive any liability to the Village for non-payment.

President Zirk expressed concern with a small wooded area that has no access. He was concerned with the fact that if the Village needed to remove a tree there was no access. Mr. Luczynski will need time to respond to this concern.

There was some discussion with respect to a small group of single family lots that appears to lack interconnectivity. In addition, there is a lack of access to this area. President Zirk noted that there is only one access point to this area. President Zirk stated that this area needs to have a secondary access point.

President Zirk expressed concern with respect to the lack of interconnectivity between the neighborhoods. Mr. Luczynski stated that the bike path aids in offering the connectivity between the neighborhoods.

There was some discussion with respect to the throw away lots. President Zirk stated that Mr. Luczynski might want to consider placing those lots in question somewhere else and create a park. Mr. Luczynski stated that he understood the concern.

President Zirk asked Mr. Luczynski who would be responsible for the maintenance of the pocket parks. President Zirk is concerned that the Village will be responsible for mowing the two acre parks.

President asked Mr. Luczynski when the sport complex would be developed. Mr. Luczynski state that the sport complex would be developed in the first phase.

There was some discussion with respect to the Village's need to define the plan prior to the development of the sport complex.

Trustee Erbeck stated that the Village had recently developed a portion of the Town Center Park and what originally appeared to be great dirt turned out to be junk and it cost the Village a lot of money to complete the project.

President Zirk discussed the interconnectivity of the bike path. Mr. Luczynski stated that he has an exhibit depicting the bike path.

President Zirk stated that there has been some concern with respect to the cul-de-sacs.

President Zirk stated that Mr. Luczynski must provide for adequate parking space within the multi-family developments.

Trustee Erbeck stated that the concern is not the parking space it is the space between the garages when residents are backing out of their garages. President Zirk stated that what the Village recommends that there be adequate parking space and space when residents are backing out. Mr. Luczynski stated the space provide is pretty standard.

Trustee Mierisch asked if all of this information will be provided to the Plan Commissioners. Administrator Keller stated that he will provide the Plan Commissioners with an overview memo noting all of the talking points discussed this evening.

President Zirk stated that this matter will be referred back to the Plan Commission.

### **Illinois American Water**

Mr. Steve Phillips reported that the Water Treatment Plant treated an estimate 50 million gallons of water and the Wastewater Treatment Plant treated an estimated 11 million gallons of wastewater. In addition, Illinois American Water had completed the fire hydrant flushing.

Mr. Phillips reported that Mr. Stein will be scheduling the annual generator maintenance sometime in the next couple weeks.

Mr. Phillips reported that about a week ago there was a problem with the brine tank at the Water Treatment Plant. However, it was a one time occurrence and it has not happen since. They will continue to monitor it closely.

Mr. Phillips reported that the influent wet well needs to be clean. Mr. Stein will send an email to Administrator Keller.

Mr. Phillips reported that the Village's water loss is currently running at about 27%. Mr. Phillips is recommending the Village conduct a leak detection survey.

Trustee Mierisch asked if everything in the Village was metered. Chief Building Inspector Swedberg stated yes.

Mr. Phillips reported that they have been working on the fixed rate study and should have this matter completed by the end of next month.

President Zirk stated that Chief Joswick has asked if the Board could amend the agenda and move item #6 Executive Session up before Public Comment.

**A motion was made by Trustee Erbeck and seconded by Trustee Garcia to amend the agenda and move Executive Session prior to the Public Comment per Chief Joswick's request.** Roll call: Vote: 6-ayes: (Trustee Zambetti, Farrell, Garcia, Erbeck, Clark and Mierisch). 0-nays, 0-abstained. Motion carried.

**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 business to follow as permitted by 5 ILC 120/2 ( c ) (1) to discuss appointment, employment, compensation, discipline, performance or dismissal of specific employees of the Village.** Roll call: Vote: 6 ayes: (Trustees Farrell, Garcia, Erbeck, Clark, Mierisch and Zambetti). 0-nays, 0-abstained. Motion carried. The Board recessed and went into Executive Session at 8:29 p.m. and returned to the public meeting at 9:45 p.m.

President Zirk called the meeting back to order at 9:45 p.m. President Zirk directed Clerk Meadows to call the roll. Roll call: Members Present: Trustees Erbeck, Clark, Mierisch, Zambetti, Farrell, Garcia and President Zirk.

### **Public Comment**

President Zirk apologized for the delay. He asked if anyone from the public wished to speak about any issue other than the Chief of Police. No one from the audience raised their hand. President Zirk went on to say members of the public had signed in to speak with respect to the Police Chief issue and he would start from the top of the sign in sheet and call the members of the public forward.

Mr. Ryan Layne who resides at 894 Tipperary Street reminded the Board that they are serving the residents and the majority of the Village residents disagree with the Board's position. He went on to say that 90% of the people will vote on the Board Members re-election. He encourages the Board to work through the issues with Chief Joswick.

Ms. Deborah Layne who resides at 894 Tipperary Street apologized however, she get very emotional when discussing the Chief.

Ms. Layne went on to say the Chief lives and works in the community and has given his life to this community. He is four to five years short of retirement and to do this is just not right.

Mr. Mike Young who resides at 242 Woodland Park Circle has President Zirk's email address and will be in contact.

Ms. Sue Corbett who resides at 81 Augusta Drive expressed her support for Chief Joswick.

Ms. Kelli Hurley who resides at 61 Augusta Drive expressed her support for Chief Joswick.

Ms. Mary LoSasso who resides at 249 Woodland Park Circle expressed her support for Chief Joswick and went on to say that she has a child that is hearing impaired and when Chief Joswick found out he had information signage placed on her street with in just a week. Ms. Lasa stated she felt Chief was a very compassionate person.

Ms. Dora Asmussen who resides at 599 Kathleen discussed the options that residents had with respect to hiring an attorney. However, this would only postpone the process of demoting the Chief. The Board does have the power to do whatever they so desire.

Ms. Asmussen stated that the people had spoken.

Ms. Asmussen hopes when the Board votes they vote the right way. The Chief has received more signatures than the Board Members received votes in the last election.

Ms. Asmussen said the Board Members have angered a lot of people. And if they don't care they should step down today.

Tom Dougherty 536 Kathleen stated he feels that the Chief has done a phenomenal job over the last 23 years.

David Stoecklein who resides at 903 Tipperary provides the Board with a handout from the Institute for Local Government (attached) titled "Fiduciary Duties and Public Service". He suggested that the Board Members read the handout prior to voting tonight. In addition he reminded that Board Members that they speak for the people and the people have spoken.

Ms. Karol Magistrelli who resides at 301 Evergreen stated she agrees with the decision to demote Chief Joswick. She has been unhappy with his service to the community for a very long time.

President Zirk reminded everyone in attendance that the Chief of Police issues is not about performance or lack there of. It is about philosophical differences and unfortunately when you are a department head in government these matter are made public.

Ms. Karen Federighi who resides at 301 Evergreen Circle stated she agrees with the decision to demote Chief Joswick. She has been unhappy with his service to the community.

President Zirk reminded everyone in attendance they need to be respectful of each other.

Mr. Mike Pugliese a Fireman and resident of West Dundee stated he had two comments. The first was with respect to the statement that the Board would prefer that the comments not be repetitive. Mr. Pugliese stated that if 600 hundred had the same comments then the Board should hear the comments 600 times. In addition, he knows that half of the Board Members were here prior to the election and live in the community, have businesses in the community and none of them have their homes for sale. That is evidence that the community is safe and that said a lot for the Police Chief. He went on to say that the Board says physiclisoical he says politics.

Firefighter Pugliese went on to say that the cooperation between the departments is excellent and the Board Members will have to answer to the voters.

**A motion was made by Trustee Erbeck and seconded by Trustee Mierisch to approve the consent agenda by one omnibus vote omitting items C and D, the following are the consent agenda items.**

- A. A motion to approve the Village Board Meeting Minutes of 07/14/09
- B. A motion to approve the Committee of the Whole Meeting Minutes of 07/14/09. No discussion followed. Roll call: Vote: 6-eyes: (Trustee Clark, Mierisch, Zambetti, Farrell, Garcia and Clark). 0-absent, 0-abstained. Motion carried.



**Ordinances/Resolutions/Motions to be passed**

**A motion was made by Trustee Erbeck and seconded by Trustee Clark to approve the change order payment to Schroeder Asphalt Services, Inc. in the amount of \$48,550.00.**

President Zirk asked if there was any discussion.

President Zirk noted that he still feels the unit counts are out of line. Chief Building Inspector Swedberg acknowledge President Zirk's concerns however he stated that Schroeder Asphalt Service is standing firmly behind there certified payroll numbers.

Trustee Erbeck asked once again about the contract and the penalties agreed upon if the work was not completed by the deadline.

Trustee Mierisch noted that the debate about payment is after the fact. From this date forward the Village should put some procedures in place to ensure they agree with the unit cost.

President Zirk agreed that the staff does need to develop a process to establish unit cost prior to entering into agreements. His thoughts are that the Village Engineer should develop the pricing per unit prior to contract acceptance.

Chief Building Inspector Swedberg stated that the work is satisfactory.

Trustee Zambetti stated that the work has been completed and was authorized by the Village to do so.

Trustee Erbeck noted that the Village is required to pay prevailing wage so the Village might be paying more for services than other companies that contract with the same vendors.

Trustee Zambetti noted that the Board had authorized staff to make the call on proceeding with the work and staff did okay the work so the Village is obligated to pay the change order.

Trustee Erbeck stated he would like some guidance from legal with respect to the penalty clause. Attorney Tappendorf stated she had not been directed to review the contract but would be happy to do so and advise the Board on its options with respect to the penalty clause if the Board desired to defer this item.

President Zirk noted that there being no further discussion directed Clerk Meadows to call the roll. Roll call: Vote: 6-ayes: (Trustees Zambetti, Farrell, Garcia, Erbeck, Clark and Mierisch). 0-abstained, 0-absent. Motion carried.

**A motion was made by Trustee Clark and seconded by Trustee Mierisch to approve Resolution 09-10 authorizing the borrowing from Union National Bank for the payment of 2 Ford F550 4x4 trucks in the amount not to exceed \$162,700.00.**

President Zirk asked if there was any discussion.

Administrator Keller stated the purchase of the two trucks was approved during the budget process however the resolution is authorizing the financing of the two trucks over a five-year period at an interest rate of 3.5 percent.

President Zirk stated that in the future he would like to see the Village develop an equipment replacement fund. Then the Village would have the reserves on hand to purchase needed equipment and would not have to borrow the money.

There be no further discussion President Zirk directed Clerk Meadows to call the roll. Roll call: Vote: 6-Ayes:(Trustees Farrell, Garcia, Erbeck, Clark, Mierisch and Zambetti). 0-nays, 0-abstained. Motion carried.

#### **Approval of Bills and Salaries**

**A motion was made by Trustee Erbeck and seconded by Trustee Clark to approve the Bills and Salaries dated July 28, 2009 as follows: General Fund \$130,685.25, Performance Bonds and Escrows \$4,831.73, Water Fund \$67,730.54, Payroll \$61,372.08 for a Grand Total of \$264,619.60.**

Trustee Mierisch asked if the K&L Gates invoice in the amount of \$46,163.85 was included in the amount that the Board previously approved. Finance Director Blocker stated that this invoice was an additional invoice.

Trustee Erbeck question payment to Tru Green. Finance Director Blocker stated that was for treatment at the Parks.

Trustee Garcia questioned payment to Call One. Finance Director Blocker stated that is the Village's phone service.

Trustee Garcia questioned the payment to IAW in the amount of \$46,459.00. Finance Director Blocker stated this payment includes the purchase of new meters.

There being no further discussion President Zirk directed Clerk Meadows to call the roll. Roll call: Vote: 6-ayes: (Trustee Garcia, Erbeck, Clark, Mierisch, Zambetti and Farrell). 0-abstained, 0-nays. Motion carried.

**A motion was made by Trustee Clark and seconded by Trustee Erbeck to approve the revised Village Board Meeting Schedule option B.** Roll call: Vote: 5-ayes (Trustees Erbeck, Clark, Mierisch, Zambetti and Farrell). 1-nay-Trustee Garcia, 0-abstained. Motion carried.

**A motion was made by Trustee Erbeck and seconded by Trustee Clark to adopt the Lieutenant job description and revised employee salary scale.**

President Zirk asked if Board Member would like to discuss this motion.

Trustee Mierisch stated that she is very concerned with the rating of the position. Trustee Mierisch noted that the rating had the Lieutenant rated lower with respect to supervisory and complexity than the current department head positions.

Administrator Keller discussed the mythology used to draft the Lieutenant job description and the salary scale.

Trustee Erbeck asked if the Sergeants would report to the Lieutenant. Administrator Keller stated yes. Trustee Erbeck agrees with Trustee Mierisch.

Trustee Mierisch stated she is looking to increase the rating and the pay scale for Lieutenant position. She is not looking at anyone person. She is looking at the rating of the job description itself. Trustee Mierisch went on to say that the training and the knowledge required for the position is not equal to the proposed rating.

There was some discussion with respect to increasing the ranking of the Lieutenant position.

Trustee Erbeck noted that the educational and experience requirements for the position would need to be increased in order to reflect a ranking increase.

**A motion was made by Trustee Erbeck and seconded by Trustee Clark to amend the pay scale for the Lieutenant position.** Roll call: Vote: 6-ayes: (Trustees Zambetti, Farrell, Garcia, Erbeck, Clark and Mierisch). 0-nays, 0-abstained. Motion carried.

**A motion was made by Trustee Clark and seconded by Trustee Zambetti to confirm the removal of the Police Chief from his position.**

President Zirk noted that this issue had been discussed in length in the Executive Session.

Trustee Garcia stated that he had made his decision after the last Executive Session.

Roll call: Vote: 4-ayes: (Trustees Garcia, Clark, Farrell and President Zirk). 3-nays: (Trustees Mierisch, Erbeck and Zambetti). 0-abstained. Motion carried.

**A motion was made by Trustee Erbeck and seconded by Trustee Clark to authorize the Village President to enter into an employment agreement for the Interim Chief of Police position.** Roll call: Vote: 4-ayes: (Trustees Erbeck, Clark, Farrell and Garcia). 2-nays: (Trustee Mierisch and Zambetti). 0-abstained. Motion carried.

**A motion was made by Trustee Erbeck and seconded by Trustee Clark to approve an agreement with the Illinois Association of Chiefs of Police.** Roll call: Vote: 6-ayes: (Trustee Clark, Mierisch, Zambetti, Farrell, Garcia and Erbeck). 0-nays, 0-abstained. Motion carried.

### **Staff Reports**

Engineer Kanthack discussed a recent letter the Village received from the IEPA with respect to the availability of stimulus funds. Engineer Kanthack stated although the Village has been declined for the stimulus funds the Village is still eligible for the low interest loan funds.

Engineer Kanthack explained that the low interest loans would be used to complete the construction of wells 5&6 located in the Conservancy development.

There was some discussion with respect to the Village having a water leak in the system. Chief Building Inspector Swedberg will check the water lines that are located in Pod 4 of the Conservancy,

Trustee Erbeck stated that he had a concern with soccer nets becoming unsecured. Staff will contact the YMCA and let them know that the nets need to be secured at all times.

President Zirk stated he would like staff to research to see if other municipalities have an Ordinance addressing nuisance properties. The Ordinance allows for the municipality after two police calls on any given day to go after the property owner.

Attorney Tappendorf stated she is aware of an Ordinance addressing this concern. However, similar Ordinances have been the subject of legal challenges, although there has been no court decision invalidating the ordinance as yet.

There being no further business to discuss **a motion was made by Trustee Erbeck and seconded by Trustee Garcia to adjourn the Village Board Meeting.** Roll call: Vote: 6-ayes: (Trustees Erbeck, Clark, Mierisch, Zambetti, Farrell and Garcia). 0-nays, 0-abstained. Motion carried. The meeting adjourned at 11:13 p.m.

Respectfully submitted,

Debra Meadows

**SIGN IN SHEET**  
(Please Print)

VBM

07/28/09

**Name                      Address                      Telephone #**

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