

**Village of Gilberts
87 Galligan Road
Gilberts, IL. 60136
Village Board
Meeting Minutes
September 7, 2010**

APPROVED MINUTES

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.

Roll Call / Establish Quorum

President Zirk asked Village Clerk Meadows to call the roll. Roll call: Members present: Trustees Erbeck, Clark, Mierisch, Farrell and President Zirk. Absent: Trustee Zambetti and Trustee Cullotta. Others present: Administrator Keller, Finance Director Blocker, Chief Building Inspector Swedberg, Intern Beith, and Village Clerk Meadows. For members of the audience please see the attached list.

Public Comment and Discussion

President Zirk asked if anyone in the audience wished to address the Board.

Ms. Michelle Sparks who resides at 217 Red Hawk Path expressed her concerns with the proposed Indian Trails Overlay District. She believed it was a waste of Village Staff's time and tax payers' money. Ms. Sparks stated at the last Plan Commission's Public Hearing Administrator Keller reported that if there was a CCR parking violation after hours the residents should call 911. She stated that in her opinion the officers on duty have larger community responsibilities other than dealing with CCR parking violations. Ms. Sparks requested the Board vote down the proposed Indian Trails Overlay Zoning District.

Trustee Zambetti arrived at 7:03 p.m.

Mr. Jeff McIntyre who resides at 494 Running Deer Lane expressed his concerns with the proposed Indian Trails Overlay Zoning District. He reported that he attended the August 11th Plan Commission's Public Hearing. However, he was unable to attend the August 25th Public Hearing.

He reported that the CCR's that were recorded with his property differ from the CCR's that the Village references. He proceeded to read sections from his recorded CCR's. He asked for the Board to consider delaying the vote to allow sufficient time to review the various amendments to the Indian Trails' CCR's. (A copy of Mr. McIntyre's CCR's are on file at the Clerk's Office).

Trustee Cullotta arrived at 7:06 p.m.

President Zirk stated that he has had several dialogues with Indian Trails Residents and had viewed various versions of Indian Trails CCR's. He noted that it is unclear which CCR's were actually recorded. He went on to verbalize his concerns with the series of inconsistency within the various versions of the CCR's. He noted that the inconsistency was problematic and is one of the reasons the Overlay Zoning District was under consideration.

President Zirk spoke of the reasons why the Village was in search of a mechanism that would clarify the CCR's language and assist in enforcement. He felt that the Overlay Zoning District would be the appropriate instrument in which to maintain the character of the neighborhood without being intrusive.

Mr. McIntyre reported that he had contacted an attorney who reported that the creation of an HOA does not require 100% resident participation. President Zirk stated that it is ambiguous on the amount of resident support needed to form an HOA. It all depends on which attorney you ask.

Mr. McIntyre respectfully asked the Board to delay the vote on the proposed Indian Trails Overlay Zoning District and allow time for due diligence. He would like an opportunity to survey the residents again. He expressed concern that the proposed Ordinance changed some of the language contained in the original CCR's.

Mr. Tom Sparks who resides at 217 Red Hawk Path expressed his concerns with respect to the proposed Indian Trails Overlay District. He noted that there was not unanimous support from the Indian Trails residents.

Mr. Sparks went on to express concerns with inoperable vehicles. President Zirk reported that inoperable vehicles were prohibited by Village Ordinance and should be reported to the Police Department.

Mr. Don Helsdon reported that the residents of Indian Trails polled itself per Board direction and the majority of the residents were in favor of the proposed Overlay Zoning District. He noted that this issue has been the focus of concern for over twenty years. Mr. Helsdon encouraged the Board Members to vote yes on adopting the Overlay Zoning District.

Mr. Dan Baird who resides at 571 Running Deer Lane voiced his support for the adoption of the Overlay Zoning District. He reported that the concerns with enforcing the CCR's have been discussed at the Board level since 1997. In addition, in 2005 the Board had adopted an Ordinance authorizing the Village to enforce the CCR's. In Mr. Baird's opinion the residents opposing the adoption of the Overlay Zoning District were the residents who violated the CCR's.

Trustee Erbeck questioned why the Indian Trails residents were opposed to forming an HOA. Mr. Cliff Surges who resides at 206 White Feather replied that the concern with forming an HOA is that if only 88% of the residents participated in the HOA it would be difficult to enforce the CCR's on the remaining balance of the property owners.

Mr. Surges expressed his support for the adoption of the Overlay Zoning District. He noted that the adoption of the Ordinance was simply a housekeeping issue. He went on to say the Village had already committed to enforce the CCR's.

Trustee Erbeck noted that in his opinion there seemed to be three main concerns.

- The parking of boats/trailers/recreational vehicles
- The prohibition on the construction of sheds
- The prohibition of fences

Mr. Surges agreed. There was some discussion about in the event of a disaster the CCR's would dictate the requirements for reconstructing a home.

Mr. Lonnie Ritchason who resides at 525 Sleeping Bear Trail reported that he had been a resident since 1960. In his opinion he did not believe the majority of the Indian Trails residents would be in favor of forming an HOA.

Consent Agenda

A motion was made by Trustee Erbeck and seconded by Trustee Clark to approve the consent agenda as follows:

- A. **A motion to approve the Minutes from August 10, 2010 Committee of the Whole Meeting**
- B. **A motion to approve the Minutes from August 17, 2010 Village Board Meeting**
- C. **A motion to approve the Bills and Salaries dated September 7, 2010 as follows: General Fund \$37,637.28, Developer Donations \$3,810.00, Performance Bonds and Escrows \$3,928.30, Water Fund \$43,517.17 and Payroll \$46,955.28.**
- D. **A motion to approve Ordinance 19-2010, An Ordinance rescinding a portion of Ordinance 98-20, An Ordinance which approved and authorized the placement of No Right Turn during Specific Hours Signs on certain Village Streets**
- E. **A motion to approve Ordinance 20-2010, An Ordinance correcting the Village of Gilberts' Final Plat for Timber Trails Unit 4**
- F. **A motion to approve Resolution 21-2010, A Resolution authorizing an agreement between the Village of Gilberts and Illinois Law Enforcement Alarm System to accept a grant in the amount of \$13,688.00 for two Panasonic Toughbook 31, software, Havis CF-31 Docking Station, Mounting Hardware and Antenna Accessories**

There being no discussion, President Zirk asked Clerk Meadows to call the roll. Roll Call: Vote: 6-ayes: Trustees Clark, Mierisch, Zambetti, Farrell, Cullotta and Erbeck. 0-nays, 0-abstained. Motion carried.

Items for approval

A motion to approve Ordinance 21-2010, an Ordinance amending section 16.8.5 of the Village Code concerning political signs.

Administrator Keller reported Attorney Tappendorf has advised the Village of the passage of Public Act 96-0904, affecting the Village's regulation of political signs. The law goes into effect on January 1, 2011.

Trustee Erbeck asked if the Village still has the right to remove signage located in the right-of-ways. Administrator Keller replied yes. The new law continues to permit prohibitions on political signage on public property (including rights of ways) and allows for reasonable restrictions on the size of political signs.

A motion was made by Trustee Erbeck and seconded by Trustee Clark to approve Ordinance 21-2010, an Ordinance amending section 16.8.5 of the Village Code concerning political signs.

Roll call: Vote: 6-ayes: Trustees Mierisch, Zambetti, Farrell, Cullotta, Erbeck and Clark. 0-nays, 0-abstained. Motion carried.

A motion to approve Ordinance 22-2010, an Ordinance amending the Zoning Ordinance to add new Section 6.5 "ITO" Indian Trails Overlay District

Trustee Clark reported that since 1997 the Board has on several occasions discussed the issue of enforcing the Indian Trails CCR's. He agrees with the enforcement of the prohibition on sheds and fences. However, he does not believe the limitations set on parking recreational vehicles; boats and trailer are zoning issues.

Trustee Clark expressed concern with the language limiting the parking of recreational vehicles, boats, and trailers to 48 hours. He reported that anyone cited with a zoning violation has 29 days to comply.

Trustee Clark stated that he was not opposed to the way the Overlay Zoning District Ordinance was written. He is just unsure if it is enforceable and would be challenged.

Trustee Erbeck expressed concerns with the expense of enforcing the Indian Trials CCR's.

Trustee Erbeck reported that in the past when residents were cited and fined they would attend a committee meeting and plead their case. After listening to the resident the majority of the time committee members would waive the fines.

Trustee Erbeck wondered if it would be less problematic if the residents would form an HOA.

Trustee Mierisch referenced the Plan Commission's Meeting Minutes from August 11, 2010. It was recorded in the minutes that the Village would incur very little expense enforcing the overlay zoning district.

A discussion ensued with respect to the possibility that the Village would incur litigation expenses enforcing the overlay zoning district. Administrator Keller stated that the overlay zoning district would provide for a defensible enforcement mechanism.

Administrator Keller reported that even if the ITO was not passed the Village is still obligated by Ordinance 05-40 to enforce the Indian Trails CCR's.

Trustee Farrell inquired if the recorded zoning would be more readily available to new Indian Trails' property owners.

Administrator Keller explained that zoning information is more readily disclosed than CCR's. He went on to say that most real estate agents or potential property buyers will inquire on the property's zoning.

Administrator Keller reported for the record that the Plan Commission started the public hearing on August 11th and continued it to their August 25th meeting at which time the Commission recommended approval of the new Indian Trails Overlay Zoning District by a vote of 4 to 2 with 1 abstention. The Plan Commission Minutes from both meetings are attached hereto and made part hereof as "Exhibits A and B".

There being no further discussion, President Zirk asked Village Clerk Meadows to call the roll. Roll call: Vote: 5-ayes: Trustees Zambetti, Cullotta, Erbeck, Mierisch and Farrell. 1-nay: Trustee Clark, 0-abstained. Motion carried.

A motion to approve Ordinance 23-2010, an Ordinance amending the Zoning Map to zone the Indian Trails Subdivision as "ITO" Indian Trails Overlay District

Administrator Keller stated for the record the Plan Commission voted in favor of amending the Zoning Map to zone Indian Trails Subdivision as "ITO" by a vote of 5 to 1 with 1 abstention. The Plan Commission Minutes along with the revised zoning map are attached hereto and made part hereof as "Exhibit C".

There being no discussion, Village Clerk Meadows called the roll. Roll call: Vote: 6-ayes: Trustees Farrell, Cullotta, Erbeck, Clark, Mierisch and Zambetti. 0-nays, 0-abstained. Motion carried.

A motion to approve Ordinance 24-2010, an Ordinance amending a special use permit for the operation of a recycling center within the I-1 General Industrial Zoning District located at 64 West End Drive.

A motion was made by Trustee Clark and seconded by Trustee Erbeck to approve Ordinance 24-2010, an Ordinance amending a special use permit for the operation of a recycling center within the I-1 General Industrial Zoning District located at 64 West End Drive.

Administrator Keller reported that West End Recycling Inc. has requested an amendment to their special use permit to allow the recycling of refrigerators, washing machines and other "white goods" at their facility located at 64 West End Drive. The recycling center is presently operated under a special use permit issued in 2006 and amended in 2009, which included a condition of approval prohibiting "white goods".

Administrator Keller continued by reporting that the Illinois Environmental Protection Act (415ILCS 5/22.28) defines "white goods components or materials" as CFC refrigerants (e.g. Freon), mercury or PCBs, which are prohibited in landfills.

Administrator Keller proceeded by reporting that the Plan Commission conducted the public hearing on this petition at their August 25 meeting, at which time they recommended approval by a vote 6-1.

The recommendation included an amendment to Condition #2, which removed the prohibition on recycling white goods that was included in the 2006 ordinance and the 2009 amendment, provided that the offending “white good components” are removed prior to acceptance at the facility. The condition relies on language from the Illinois Environmental Protection Act to define the prohibited “white goods components”.

In addition, the Plan Commission also added a new Condition #15, which requires West End Recycling to establish protocols for turning away appliances that still have “white good components,” as well as handling spills or accidents involving hazardous and “white goods” (e.g. mercury) materials.

Trustee Erbeck questioned who would be responsible for monitoring West End Recycling’s operations. Administrator Keller reported the IEPA is the agency that would be responsible for overseeing the operations. Trustee Erbeck wondered what recourse the Village would have if there was a violation. Administrator Keller replied the Village would have the right to revoke their special use permit.

Trustee Mierisch reported that when West End Recycling’s Representative Nely Diaz discussed this request with the Board she reported that she anticipated 10% of their business would be generated from the recycling of “white goods”. However, when asked at the Plan Commission’s Public Hearing it was reported that they anticipated 30% of their business would be generated from the recycling of “white goods”.

Attorney Regan on behalf of West End Recycling responded that it is difficult for his client to estimate the percentage of “white goods” they would receive due to the fact that they currently do not accept them. In addition, often potential customers who have “white goods” comingled in their recycling loads leave without dropping off any items due to the fact “white goods” are not accepted.

Trustee Mierisch reported that recently she had contacted some of West End Recycling’s competitors to inquire how they handled the recycling of “white goods”. She expressed concerns on how vague their information was. Most did not mention the need for a certification sticker evidencing a certified technician had removed the hazardous components.

Trustee Mierisch reported that the Plan Commission recommended West End Recycling coordinate with the Rutland Dundee Fire Department and draft written procedures to deal with any hazmat spill. She asked if this recommendation had been addressed. Attorney Regan replied no not as of yet. Once and if the special use was amended to allow the acceptance of "white goods" his client would comply with the recommendation.

Trustee Zambetti discussed his concerns with storage. He wants to ensure that the recyclable materials will not be visible or stacked higher than the height of the storage area walls.

Trustee Zambetti commented on his aspiration for all local businesses to prosper.

Trustee Erbeck inquired on what the requirements are for certifying the hazardous materials have been removed from any "white good". Administrator Keller reported that the Clean-Air Act Section 90 requires any provider removing any hazardous components from "white goods" have a license technician performing the removal and certifying the hazardous components have been removed properly.

A discussion ensued with respect to accidental hazardous material spills. Attorney Regan noted that many of the current industrial users have a potential risk for accidental hazard spills. In addition, his client's work surface is a concrete floor unlike some of the other industrial users.

Trustee Mierisch recommends all West End Recycling employees are trained to deal with hazmat situations. In addition, West End Recycling works in conjunction with the Rutland Dundee Fire Department to draft an emergency response plan.

Trustee Mierisch reminded Administrator Keller that there are two recycling centers in town. Administrator Keller reported that he had been in contact with the other recycling center and they are aware of the request. In addition, if they decided to request an amendment to their special use permit they will need to go through the same process.

There being no further discussion, Clerk Meadows called the roll. Roll call: Vote: 6-ayes: Trustees Cullotta, Erbeck, Clark, Mierisch, Zambetti, and Farrell. 0-nays, 0-abstained. Motion carried.

Staff Reports

Finance Director Blocker reported the 2nd water billing cycle went smoothly.

Village Clerk Meadows reported that The Point was hosting a Grand Opening along with a ribbon cutting ceremony on October 9th.

Trustee Reports

Trustee Erbeck commended the Plan Commission for their thorough consideration and recommendation on both the Indian Trails Overlay Zoning District and West End Recycling amendment to their special use permit.

Trustee Erbeck inquired about the status on the congestion at the intersection of Galligan and Huntley Roads. Administrator Keller reported Chief Williams has been in contact with Chief Perez and is awaiting written response.

Trustee Clark inquired on when the new Jackson Street directional signage will be installed. Administrator Keller reported that the signs have been ordered and should arrive by the end of the week.

Trustee Clark suggested going to a paperless board packet. He asked staff to research the cost of laptops.

Trustee Erbeck expressed concerns with a manmade path located by the kidney bean on Galligan Road. Staff is aware of the path. However, this is a sensitive subject.

Village Board
Meeting Minutes
September 7, 2010
Page 11

Adjournment

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: 6-eyes by unanimous voice vote. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,

Debra Meadows

SIGN IN SHEET
(Please Print)

VBM
9/7/2010

| Name | Address | Telephone # |
|-------------------------|-------------------------------|---------------|
| Jeff McIntyre | 494 Running Deer Lane | 847-844-9194 |
| Linda & Dan Band | 571 Running Deer | 847-844-1584 |
| Lennie & Liz Hutchinson | 525 Sleeping Bear Trail | 847-426-6726 |
| Ton WATSON | 481 Kildare | 224-629-1397 |
| MARK WOODBURY | 218 RED HAWK | 847 428 -8131 |
| Alana Woodbury | 218 Red Hawk | 847-428-8131 |
| Chris Enges | 206 WILKINSON | 847-426-0204 |
| DAN COMBET | 81 Augusta Dr. | 847-214-8167 |
| JOHN REGAN | 2400 Big Timber Rd, Elgin, IL | 847-697-6770 |
| Bill Gibson | 49 WEST GOLF | 847-774-0300 |