

Village of Gilberts
Village Board
Meeting Minutes
October 6, 2009
7:00 p.m.

APPROVED MINUTES

ORDER OF BUSINESS

Call to Order/Pledge of Allegiance

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

Roll Call/Establish Quorum

President Zirk asked Acting Clerk Meadows to call the roll. Roll call: Members present: Trustees Erbeck, Clark, Mierisch, Zambetti, Farrell, Garcia and President Zirk. Others present: Administrator Keller, Attorney Tappendorf, Chief Building Inspector Swedberg, Interim Police Chief Weiss, and Acting Village Clerk Meadows. For members of the public see the attached list.

Public Comment and Discussion

President Zirk informed the public of the established method in which the audience could participate.

Ryan Trotter of Par Development stated that he along with Par's engineer and attorney had reviewed the proposed O'Hara recapture agreement and noted that the FAR metrology applied did not appear to treat all the benefited property owners the same. Mr. Trotter reported the Par property is 56% of the benefited property noted in the recapture agreement and about 5 to 6 acres of the Par's property consist of wetlands and a detention basin that would not be buildable.

President Zirk recommended that the Board Members remove item 4G from the consent agenda to allow for further discussion. The Board Members concurred.

Ms. Kay Kummerow, who resides at 180 Tyler Creek Street, stated that she also has concerns with respect to Agenda item 4G. For the record Mr. Kummerow noted that Par Development is part of a TIF District which hurts the school districts. In addition, Ms. Kummerow noted that with previous Boards connection to sewer or water line was not an option it was a requirement. Ms. Kummerow questioned the size of the pipe and if it would be able to support all of the potential users. President Zirk stated that they will discuss Ms. Kummerow's question when they resume the discussion of Agenda item 4G.

Saya Rasavongzay who resides at 135 Glenbrook Circle and Day Dary who resides at 214 Timber Trails approached the Board. They came before the Board to express their concerns and frustrations over an unreasonable neighbor. They went on to say that the neighbor (131 Glenbrook Circle) had over the course of five years called the Police Department to report that they were in violation of the Noise Ordinance.

The residents stated that the complaints filed against them were false and Mr. Rasavongzay was never cited on any of the occasions. However, on September 18th during a wake at Mr. Rasavongzay residence he was issued a citation for violation of a Municipal Ordinance from a complainant who resides at 131 Glenbrook Circle.

Mr. Rasavongzay asked the Board if there was anything they could do to stop their neighbor from making these false claims and police reports.

Attorney Tappendorf stated that this is a civil matter and they may want to discuss with their attorney their options for filing an action against the neighbor. Under the current circumstances, the Board is likely not in a position to resolve this issue. There was discussion of having the residents meet with Village Administrator Keller to discuss the various complaints.

Consent Agenda

A motion was made by Trustee Erbeck and seconded by Trustee Zambetti to approve the Consent Agenda items A-F as follows:

- A. A Motion to approve the Committee of the Whole Meeting Minutes 08/25/09**
- B. A Motion to approve the Village Board Meeting Minutes 09/01/09**
- C. A Motion to approve the Committee of the Whole Meeting Minutes 09/08/09**
- D. A Motion to approve the Treasurer's Report for August 2009**
- E. A Motion to approve the Audit for the Fiscal Year Ending April 30, 2009**
- F. A Motion to approve Resolution 09-13R, A Resolution approving the Executive Session Meeting Minutes**

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

Items for Discussion

Recapture Agreement with Gateway Properties, LLC

Mr. Trotter provided the Board with an exhibit for their consideration depicting a proposed allocation which takes into consideration Par's buildable acreage. Mr. Trotter reported that they had looked at exhibit 4 (exhibit of cost) in the current recapture and they notice that a significant amount of the recapture (57%) is being allocated to Par's property which is approximately 20 acres in size.

Mr. Trotter went on to say that the fundamental issue Par has with applying the FAR to gross acreage is that it makes the assumption that there is buildable area in detention and wetlands. In Mr. Trotter's opinion, this assumption overestimates the recapture amount for the Par property.

Mr. Trotter stated that if you were to net out the wetlands and detention acreage they only have about 14 acres that are buildable.

Mr. Trotter provided the Board Members with an overview of his exhibit. He noted that the site plan illustrates the construction of approximately a 163,000 square foot building.

Mr. Trotter proposes that the square footage of the building be applied into the calculation instead of the gross acreage. By using this methodology it would reduce Par's recapture cost by \$32,954.34.

There was some discussion with respect to the various methodology one could apply. President Zirk stated that doesn't matter which methodology is used as long as it is fair to all the benefited property owners.

Mr. Shepard, Par Development Representative stated that if Par was to construct a larger building they would agree to pay more recapture. In addition, if Par constructed a smaller building they would still pay the agreed recapture amount.

Attorney Tappendorf discussed the background for developing the methodology and that it was a fair and reasonable method for allocating the recapture amount on each benefited parcel. Attorney Tappendorf reported that the Village Engineer worked on the numbers for several months to ensure the numbers were reasonable and a fair allocation. In addition, Attorney Tappendorf stated that she is comfortable with the Village Engineer's methodology and it is consistent with accepted practice and other recapture agreements approved by the Village in the past.

President Zirk stated that with the construction of a lift station the line could possibly have the capacity to allow Windmill Meadows to connect.

President Zirk discussed the position of the Board to make hook-up optional. He went on to say that the Board did not want to make a business owner struggling in this economy be forced to connect and pay the recapture fee.

There was some discussion with respect to allowing staff time to meet with Mr. Trotter to discuss his concerns. Attorney Tappendorf stated that she had some concerns that she would like to discuss in closed session prior to Board action.

Approval of Bills and Salaries

A motion was made by Trustee Erbeck and seconded by Trustee Zambetti to approve the bills and salaries as follows: General Fund \$143,210.20, Developer Donations \$1,000.00, DUI/Drug Forfeiture \$427.75, Permit Pass Thrus \$8,897.50, Performance Bonds and Escrows \$7,400.96, Water Fund \$100,335.68 and Payroll (9/17/09 & 10/01/09) \$114,182.27.

President Zirk asked if anyone had any comments about the motion.

Trustee Garcia questioned the payment to Baxter and Woodman in the amount of \$7,670.10 being charged to the water fund. Administrator Keller reported that this was for the work they have been doing with respect to the Village taking over the water and wastewater operations.

Trustee Garcia questioned the payment to BWCSI in the amount of \$3,764.50. Administrator Keller stated that this was for the last month's network upgrades.

Trustee Garcia questioned the payment to Grand Rental Station. Chief Building Inspector reported that this was equipment rental.

Trustee Garcia questioned the \$500.00 being noted on the Reserve Account line item. Administrator Keller stated he would have to ask Finance Director Blocker.

Trustee Erbeck questioned the payment to Zoo to U. Clerk Meadows stated that was for the deposit on the Annual Bonfire Hayride which will be reimbursed by the YMCA.

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

Staff Reports

Chief Building Inspector Swedberg reported that he had provided the Board Members with the reports they had requested at the last meeting.

President's Report

President Zirk reported that the Board approved releasing a significant number of executive session meeting minutes that were previously kept confidential and the reason some of the Executive Session Minutes were still being held is due to pending litigation that should be resolved shortly.

President Zirk asked if the Board Members would like to consider a resident's request to be allowed to park his semi-trailer in his driveway. The Board Members responded that his matter had already been addressed (parking of a semi-trailer on residential driveways is prohibited).

A motion was made by Trustee Clark and seconded by Trustee Erbeck to close a portion of the meeting with business to follow effective immediately as permitted by 5 ILCS 120/2 (c) (1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees to the Village, and as permitted by 5ILCS 120/2 (c) (11) to discuss litigation against, affecting, or on behalf of the Village which has been filed and is pending in a court or administrative tribunal or which is imminent. Roll call: Vote: 6-ayes (Trustees Zambetti, Farrell, Garcia, Erbeck, Clark and Mierisch). 0-nays, 0-abstained. Motion carried. The Board recess and went into Executive Session at 8:04 p.m. and returned to the public meeting at 9:02 p.m.

Reconvene the Public Meeting at 9:03 p.m.

Roll Call: Trustees Erbeck, Clark, Mierisch, Zambetti, Farrell, Garcia and President Zirk.

President Zirk stated that the Board wants to be fair to Par and also fair to the other property owners.

Attorney Tappendorf noted that with respect to the recapture allocations and the methodology used in the recapture agreement, each allocation was based on the gross square footage of each parcel and the density of development that would be allowed on that parcel in the zoning district in which the property is located. In addition, the two lots (lots 42 and 44) that Par believed were treated differently were due to the fact that unlike the other benefited properties these two lots are zoned commercial.

President Zirk stated that the Board is sensitive to Par's concerns. He stated that next week the Board could hold a special meeting prior to the Committee of the Whole Meeting to discuss the recapture agreement. That would allow Par time to meet with staff and understand the methodology used by the Village. Mr. Trotter thanked the Board for providing him with the opportunity to meet with staff.

A motion was made by Trustee Clark and seconded by Trustee Zambetti to table item 4G until one week from tonight (10/13/09) at which time the Board will hold a Special Meeting to discuss this matter. Trustee Mierisch noted that the Board will have to vote on this matter at the October 13th Special Meeting. Roll call: Vote: 6-ayes: (Trustee Farrell, Garcia, Erbeck, Clark, Mierisch and Zambetti). 0-nays, 0-abstained. Motion carried.

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There being no further business to discuss **a motion was made by Trustee Erbeck and seconded by Trustee Farrell 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. Adjournment time 9:07p.m.

Respectfully submitted,

Debra Meadows

SIGN IN SHEET
(Please Print)

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VBM

10/6/09

Name	Address	Telephone #
Kay Kummerow	180 Tyler Creek Street	847-426-3366
Lou Hacker	545 Running Deer Ln.	847-551-3300
Barb Clayton	1321 Maple Ave, Wilmette IL	847-256-0266
Keith Clayton	1321 Maple Ave Wilmette IL	847-256-0266
David Alice	146 Charleston	847-836-8986
Damon Frugoni	147 CHARLESTON	847-220-0754