

VILLAGE OF GILBERTS
VILLAGE BOARD WORK SESSION MEETING
October 14, 2008
7:30 A.M.

CALLED TO ORDER:

Village President Wajda called the meeting to order at 7:30 p.m.

ROLL CALL/ESTABLISH QUORUM:

Members present: President Wajda, Trustees Erbeck, Garcia, Mierisch, Mueller, Zambetti, and Mengarelli, Other Present: Village Administrator Ray Keller, Administrative Intern Kyle Cratty, Police Chief Mike Joswick, Finance Director Marlene Blocker, Village Clerk Darlene Mueller. President Wajda declared a quorum present. (Members of the Public see attached list.)

STRATEGIC PLAN FOLLOW-UP

Administrator Keller explained a list of comments on the draft Strategic Plan for 2014 from the Community Dialogue of September 23, 2008 and other correspondence submitted in the packet for the Board's review to comment on any changes that may be needed. After reviewing the draft strategic plan, Trustee Mengarelli recommended that the Board include Senior Citizen Housing in the strategic plan. It was the consensus of the Board to include "Explore senior citizen development opportunities" to be inserted as No. 2. in Goal 4: Provide a variety of housing options. There being no further changes to the Draft Strategic Plan, the Board directed Administrator Keller to submit a final draft for Board consideration.

TIF UPDATE

Administrator Keller submitted three ordinances at the F/L/O Committee: Ordinance #08-22, adopting the TIF Redevelopment Plan; Ordinance #08-23, setting the boundary area; and, Ordinance #08-24, adopting the tax incrementing financing. Administrator Keller also submitted a preliminary timeline of a financing plan and summary of preliminary costs for the industrial park.

Trustees Mengarelli and Mierisch gave a report from the Economic Development Committee on concerns from business owners. Concerns centered on new wells and variances to keep their wells; hazardous cleanup cost; business owners did not want TIF funds to be allocated for any EPA cleanup; and, businesses were concerned about how the Village use the TIF funds. The property owners would have to pay for water and sewer tap-on fees. Kane County will be contacted to see if they can keep their wells.

Trustee Mierisch explained that the Village did everything to inform the businesses about the TIF District by inviting them to committee meetings and board meetings, Trustee Mierisch stated she was comfortable with the Village going ahead with the TIF.

Trustee Mengarelli expressed his concerns about the 20 acre development. Trustee Mengarelli was concerned that if the property was not developed in four years would the Village be able to pay the debt service on the general obligation bonds. Trustee Mengarelli felt the Village has been playing "catch up" from the Timber Trails' low impact fees. Trustee Mengarelli further expressed his views and stated he is not in favor of financing through obligation bonds and would not vote in favor of the TIF.

Trustee Erbeck felt the 20 acres would not be developed until Timber Trails West is developed. Trustee Erbeck felt the taxes going to the TIF District would be offset by future commercial on Route 72 and Tyrrell Road.

Administrator Keller clarified some of the Board's concerns and expressed there was an element of risk with the general obligation bonds. Administrator Keller emphasized by establishing the TIF, it does not obligate the Village to start financing. The Village can wait for sufficient revenue to be available to start projects; however, it may take a long time which would increase construction costs. Interest from the General Obligation bond is at 5.30%, which could go higher in the future.

Lengthy discussion followed on road construction. Trustee Garcia was unaware that the new road design would eliminate curb and gutter. Trustee Mierisch advised that this subject was discussed at an Economic Development Committee meeting to reduce the overall cost. Trustee Garcia felt the roads should be constructed as originally planned and felt corners were being cut. Trustee Garcia also felt that

VILLAGE BOARD WORK SESSION MEETING

October 14, 2008

Page 2

this increased the risk of having to reconstruct the roads. Trustee Zambetti explained that a two (2) foot concrete shoulder would be installed to stop it from cracking instead of the curb and gutter.

Discussion followed on the TIF plan permitting many types of public improvements. The Board has the authority to create an action plan, for improvements, which would have to go before the Village Board. There were no comments from the business owners on what they would like as improvements.

Administrator Keller explained the contents of the three proposed ordinances. The Board recommended that the ordinance be put on the October 21st agenda for their consideration.

Trustee Zambetti felt this was a major step for the Village and discussed things the Village could have done in the past. One example was the ice skating rink which is now in West Dundee. Trustee Zambetti expressed that he would be very disappointed if the TIF failed. Trustee Garcia agreed with Trustee Zambetti.

COMMITTEE AND BOARD MINUTES

Attorney Tappendorf explained that the minutes for committees and the board were discussed at the F/L/O meeting. Minutes vary with some municipalities having the date, time, and place of meeting, a brief summary of the subject and record of votes taken; other municipality has different levels of detail in their minutes. Attorney Tappendorf explained that the more detailed minutes are the more likely misinterpretations and misunderstandings are to occur. The Open Meetings Act requires that minutes be kept of all meetings of all public bodies which includes Village Board and its advisory and subsidiaries bodies, including any Village committee and subcommittee. Written meeting minutes must include the date, time and place of meeting; the members of the public body; summary of the discussion on all matters proposed, deliberated, or decided and a record of any votes taken. Trustee Mueller verified having to be involved in lawsuits when detailed minutes were done and taken out of context.

Trustee Mierisch and Trustee Garcia have experienced a problem when minutes are too vague. Trustee Mierisch has also expressed concern when action was to be taken in minutes, but never occurred, giving a sample of a resident who approached her on an incident.

After a discussion, it was the consensus of the Board to discuss at the end of the meeting any action items to be addressed. The board members would have the opportunity to add statements they feel should be in the minutes and the Chairperson will be responsible for noting action items to be taken that are discussed in the meeting.

President Wajda recommended that after each paragraph summary a notation is made on whether there was an action taken, not taken, or if there was no resolution. The Board concurred with President Wajda's recommendation.

Attorney Tappendorf recommended that verbatim transcripts be utilized for public hearings using a court reporter where matters are controversial.

NOISE ORDINANCE

Administrator Keller discussed the Special Use ordinance for the Eagles Club and their hours of operation which has been addressed with the Eagles.

Attorney Tappendorf cited different cases about enforcement of noise ordinances in her memo. As stated in Attorney Tappendorf's memo to the Board, "Gilberts can enforce its noise ordinance, so long as it does not contradict any state noise law or regulation, is not over reaching or vague, is not selectively enforced and the Village's determination of what constitutes a nuisance is reasonable." Enforcement is not limited to one area but is enforced throughout the Village.

Attorney Tappendorf discussed the difference between public and private nuisances. Public nuisances are those that affect the village as a whole or a group of residents, while private nuisances affect individuals or a distinct group. The Village has the authority to abate public, not private nuisances, although individuals can bring civil actions to address private nuisances. Attorney Tappendorf discussed

VILLAGE BOARD WORK SESSION MEETING

October 14, 2008

Page 3

four options in her memo. She stated that because the Eagles Club has an approved special use permit for athletic fields, any enforcement of the noise ordinance that would prohibit that approved use could subject the Village to a challenge by the Club. She also stated that the Village must be careful not to selectively enforce the noise ordinance. Finally, she stated that the Village could amend its noise ordinance, but enforcement is still an issue.

Trustee Mierisch noted in the memo that not just "one neighbor" complained to the Police Department about the noise at the Eagles Club and was told it was not enforceable. Trustee Mierisch invited the Board to stand on the street 30' from her property line when there are sports activities at the Eagles. Trustee Mierisch inquired where in the Village is there a park with a 30' property zoned residential. There was no response from the Board.

Trustee Zambetti recommended that the Village open the 20-acre park to solve some of the noise issues we have with the Eagles' Club.

Trustee Mierisch claimed the Eagles' Club are not following their hours of operation and opening at 10:00 a.m. and violating the Special Use Ordinance. Trustee Mierisch also felt the Eagles have not been policing the athletic field when activities are played and excessive loud noise from the PA system is heard from their residence.

Trustee Garcia addressed the Eagles Representatives Terry Dowling and George VanMeter and recommended that additional buffering using trees to help lessen the noise and also to be observant of the Eagles' hour of operation.

Discussion on the Eagles' not following the approved landscaping plan followed.

Trustee Mierisch expressed that the Eagles have a beautiful facility; however, for three months of the year from 5:00 pm to 9:00 pm. they have to leave their home because of the noise from the Eagle's.

Attorney Tappendorf explained the differences between a private and public nuisance and enforcement problems. Attorney Tappendorf said that the Village only has the authority to abate public nuisances and to address noise complaints that are violations of the Village's noise regulations.

Discussion followed on a private and public nuisance with Trustee Mengarelli using his neighbor as an example.

Trustee Mengarelli concurred with Trustee Mierisch describing his experience with dirt bikes in Windmill Meadows.

Trustee Garcia for the record stated that the noise ordinance is enforceable

Trustee Mierisch requested to amend the noise ordinance with the amendments that were presented at the Finance/License/Ordinance Committee on September 9, 2008 by resident Harry Mierisch. After a discussion, it was the recommendation of the Board to have legal review the suggested amendments to see if they are legal and enforceable.

After further discussion, it was recommended that Trustee Mierisch and Mr. Mierisch direct noise complaints and other observed violations to the Police Department and The Illinois Anti Pollution Board.

Trustee Mueller recommended if the noise ordinance can be strengthened, it should be considered and enforced throughout the Village.

Trustee Garcia would like to see petitions before considering amending the noise ordinance. Trustee Mierisch will provide the petitions for the Board's review.

President Wajda directed Clerk Mueller to place this matter on the next work session agenda.

VILLAGE BOARD WORK SESSION MEETING

October 14, 2008

Page 4

OTHER VILLAGE BUSINESS

Trustee Mengarelli reported at the Building/Zoning/Planning/Development Committee Chief Building Inspector John Swedberg attended the ICC Code Hearing in Minneapolis relative to 2009 Building Code which includes fire sprinklers. ICC rules after January 1, 2011 newly constructed one and two family dwelling will be required to have fire sprinklers installed. New town homes and condos built after the municipality adopts the 2009 International Residential Code will be required to have fire sprinkler installed. It was the consensus of the Board to wait until the 2009 Code is distributed which could be as early as March 2009.

Trustee Mengarelli gave an update on satellite dishes and discussed a resident who was given approval from his homeowners association to install his satellite on the roof which is a village code violation. The homeowners association is requiring him to sign an indemnification clause. Trustee Erbeck was under the impression at a B/Z/P/D meeting that Foster Premier did not require an indemnification clause and asked Attorney Tappendorf's opinion on this matter. Attorney Tappendorf explained this was a private matter between the resident and homeowner's association and not the Village's responsibility.

Trustee Garcia requested that the amendments made by resident Harry Mierisch could be handled at the F/L/O Committee and legal did not have to be involved in this matter. Trustee Mueller would like legal to review the recommendation for legal and enforcement reasons.

Trustee Garcia inquired about a project list that Administrator Keller was given. President Wajda reminded the Board of the "Open Issues List" which was dropped last May due the lack of the updating by the committee chairperson. Trustee Garcia stated the updates were given at the work session meetings. No action was taken.

Administrator Keller advised that he will be starting to implement the Strategic Plan.

Trustee Garcia inquired about the status of Public Works Assistance from Baxter and Woodman. Administrator Keller explained that it was just approved at last Tuesday's meeting and Public Works Field Supervisor Burke just returned from a seminar. He is working on it and some of the items will be on the next Public Works agenda.

Trustee Mierisch discussed the red flag ordinance that is to be adopted by November 1st. Attorney Tappendorf explained the criteria of the ordinance and how it pertained to Gilberts' sale of water to residents.

Trustee Zambetti handed out a bullet sheet for the Memorial Park Baseball Diamond. Discussion followed on the YMCA project at Memorial Park. Administrator Keller discussed the liability issue and hiring Kyle Neubauer from the YMCA to assist and cut cost. After a discussion, it was the consensus of the Board to move forward with the project.

Trustee Erbeck inquired about the amount of salt we have in the bins which the Village has accumulated a greater amount with the new salt bin.

Trustee Erbeck discussed getting a filing cabinet for Trustees to use to put packet items in. No action was taken.

President Wajda inquired about the status of 172 Tyler Creek Street. The contractor is presently working at the house but the Village is still proceeding to initiate an order for demolition.

Administrator Keller reported receiving an email from Attorney Robertson that the ICC has ruled to put the power lines on Freeman and Kreutzer Road. There is a 30 day appeal process before it is final.

There being no further business, **a motion was made by Trustee Mengarelli and seconded by Trustee Garcia to adjourn the meeting.** Roll call. Vote: 6-ayes (Trustees Erbeck, Garcia, Zambetti, Mueller, Mierisch, and Mengarelli), 0-nays, 0-abstained. 0-absent. Motion carried Adjournment time: 10:35 p.m.

Respectfully submitted,
Darlene Mueller, Village Clerk