

**VILLAGE OF GILBERTS
VILLAGE BOARD WORK SESSION MEETING**

April 14, 2009

7:00 p.m.

CALLED TO ORDER:

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

ROLL CALL/ESTABLISH QUORUM:

Members present: President Wajda, Trustees Erbeck, Mengarelli, Garcia, Mueller, and Zambetti. Absent: Trustee Mierisch. Others Present: Village Administrator Ray Keller, Attorney Stewart Diamond, Administrative Intern Kyle Cratty, Chief Building Inspector John Swedberg, Finance Director Marlene Blocker, Village Engineer Ed Kanthack, and Village Clerk Darlene Mueller. President Wajda declared a quorum present. (Members of the Public see attached list.)

TIMBER TRAILS VILLAS ROAD

Administrator Keller introduced Peter Wallers, P.E., CFM from EEI, Engineering Enterprises, Inc. Engineer Wallers was asked to review the existing documentation and the condition of Regent and Briarwood Drives in Timber Trails Villas. Engineer Wallers will also give an opinion on the process followed by the Village relative to the acceptance of the roads. Using an overhead projector and providing the Board and Staff with a copy of the overhead presentation as well as a written documentation, Engineer Wallers proceeded with his presentation. (A copy of the presentation and documentation to be attached to the original minutes and made part of the minutes). Engineer Wallers discussed the approval process, final design phase, photographs of the private streets showing the ponding of water creating a drainage issue; making it a contributing factor for the present condition of the roads. During the construction phase there was no requirement in the Village Ordinance for inspection of private roads and no records on file. Inspection of public roads is covered in the ordinance and not private roads. Using MicroPAVER software and core samples, pavement evaluations for both roads were taken. Regent Drive was evaluated as being good and Briarwood Drive as fair. However, it was noted that the roads were aging 20% to 30% quicker than expected. Briarwood Drive is at the resurfacing stage. Engineer Wallers went into detail on road specifications and the need to look into further explanation on why they are deteriorating and determine what needs to be done. The MicroPAVER software is used only as a guide. Core samples indicated that the roads were not built in strict adherence with the plans. Private roads were indicated on the final plat of subdivision. Discussion followed on whether or not at the time of purchasing their homes from Ryland Homes, residents were told the roads were to be owned and maintained by the Village. However, Kane County records note that Ryland Homes is the owner of record. Engineer Wallers discussed four options: 1. No action required by the Village-Homeowners association (HOA) maintains ownership and maintenance responsibility of the private roads. 2) Village offers a onetime contribution to the HOA for road reconstruction; streets remain private. 3) Village takes over streets as public streets and adds them to the Village system for repair and maintenance; and 4) The Village facilitates formation of a Special Service Area on the towns homes (HOA) to fund a reconstruction of the streets. Streets remain private, no public funds is expended on the streets (allows 20 year financing).

Village Attorney Diamond explained that the roads absolutely did not belong to the Village and was shown on the final plat of subdivision as private roads; roads were not dedicated to the Village. Attorney Diamond, from listening to Engineer Kanthack, explained that the bill of sale given to the Village for the underground utilities did not indicate any transfer of roads to the Village. Attorney Diamond felt from what he has heard that it was pretty clear that the Village did not own the private roads. Attorney Diamond also said that SSA funds could not be used if the roads were to remain private. Mrs. Christine Erbeck, President of Timber Trails Villas Homeowners Association stated that she urged the Village not to release the bond because of the poor condition of the roads and that the HOA would not accept them; the Village released the bond.

VILLAGE BOARD WORK SESSION MEETING

April 14, 2009

Page 2

Administrator Keller explained that the covenants recorded at Kane County states the maintenance of the road was the responsibility of the homeowners and owned by the homeowners association and the owner of records was shown to be Ryland Homes. Mrs. Erbeck stated the sales person at the time of purchasing their home had told them that the roads were owned and maintained by the Village. Attorney Diamond felt that a private lawsuit could be had against the developer. He further explained that the HOA is required to accept common elements which include roadways. The owner of the roadway, the original developer, has the ability to transfer the elements to the HOA after a percentage of the homes have been sold. The HOA must accept and maintain them. Attorney Diamond explained that the HOA could sue the developer since they were not properly constructed. Attorney Diamond further explained the HOA's responsibility.

Discussion followed on the conditions of the private street and the status of what age they were at now. Engineer Wallers explained the roads were constructed in 2003 and that parts of the roads have aged twice as fast as expected, and in six more years, the roads will be at its life span.

Engineer Wallers discussed option four – Village facilitates formation of a special service area on the town homes (HOA) to fund a reconstruction of the street. Streets remain private, no public funds are expended on the streets, allowing a 20 year financing. Trustee Mengarelli asked if there could be an option number 5; to pursue litigation on any of the options that were chosen. Attorney Diamond stated that SSA funds could only be used if the streets were eventually public and he agreed that pursuing the issue with Ryland should be discussed.

President Wajda recommended tabulating pros and cons of each option for further documentation. Administrator Keller discussed further direction on what to expend for legal and engineering.

President Wajda explained that the purpose of tonight's meeting was to obtain the results of the study from Engineer Wallers with no public discussion. President Wajda suggested a future meeting may be needed for public discussion.

Trustee Mengarelli reminded the Board that the three newly elected board members will be taking office and may want to give their input on this situation.

President Wajda directed Staff to forward a complete documentation packet to the new board members. President Wajda felt that this would be a good time to add any comments to the report before Engineer Wallers finalizes his findings.

Trustee Erbeck asked Engineer Wallers opinion on option #4 on a cost to give the homeowners. Engineer Ed Kanthack estimated the total with a storm sewer and crown is approximately \$500,000 to \$600,000 which was the cost a year ago. Staff will look into this matter.

HENNESSY COURT BRIDGE UPDATE

Using an overhead projector, Engineer Ed Kanthack discussed the first two culverts have arrived and it was noted that the third one was failing on the east side and a call was made to order five more. Engineer Kanthack has enough evidence to replace all seven of the culverts which will result in a temporary status for five years. Engineer Kanthack discussed the placement of the culvert and backfilling around the pipes. The new culverts are thicker and better quality than the existing ones. Engineer Kanthack and Chief Building Inspector Swedberg are coordinating with Com-Ed and NiCor if an emergency arises. Engineer Kanthack commended the utilities company's working relationship on this project. Chief Building Inspector Swedberg also expressed the cooperation with the residents has been wonderful in helping in this situation. Trustee Garcia suggested that our public works employee wear appropriate equipment for safety reason.

OTHER VILLAGE BUSINESS

Trustee Erbeck would like to see a list of violations included in the Committee of the Whole packet.

Trustee Garcia inquired on the status of the sign for the Town Center Park. Administrator Keller stated he would move forward on this matter.

VILLAGE BOARD WORK SESSION MEETING

April 14, 2009

Page 3

Trustee Garcia and Trustee Erbeck had received an email from a resident and the resident was under the assumption that he and Trustee Erbeck did not want a Park Task Force Committee. Trustee Garcia made it clear that direction be given first before having a Park Task Force Committee.

There being no further business, **a motion was made by Trustee Mengarelli and seconded by Trustee Erbeck to adjourn the meeting.** Roll call: Vote: 5-ayes (Trustees Erbeck, Garcia, Mengarelli, Mueller and Zambetti), 0-nays, 1-absent (Trustee Mierisch) 0-abstain. Motion carried. Adjournment time: 8:30 p.m.

Respectfully submitted,

Darlene Mueller, Village Clerk
Village Clerk