



**MINUTES FOR VILLAGE OF GILBERTS  
BOARD OF TRUSTEES MEETING  
Village Hall: 87 Galligan Road, Gilberts, IL 60136  
Meeting Minutes  
Tuesday, August 4, 2020**

**1. 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.

**2. ROLL CALL / ESTABLISH QUORUM**

Deputy Village Clerk Phillip Versten called the roll. Members present: Trustees Corbett, Allen, Zambetti, Farrell, Hacker, and President Zirk. Staff present: Village Administrator Brian Bourdeau, Public Works Director Aaron Grosskopf, Finance Director Taunya Fischer, Deputy Village Clerk Phillip Versten, Intern Riley Lynch. Others present: Al Stefan of Robinson Engineering, Troy Mertz of Gilberts Development, LLC. Public present: Dan Pace.

**3. PUBLIC COMMENT**

None.

**4. CONSENT AGENDA**

- A. A Motion to approve Minutes from the July 21, 2020 Village Board Meeting
- B. A Motion to approve Bills & Payroll dated August 4, 2020
- C. A Motion to Approve Resolution 21-2020, A Resolution Approving Changes to the Village of Gilberts Personnel Policies Related to Non-Exempt Personnel Overtime

President Zirk asked if any of the board members wished to remove any consent agenda items for separate consideration. After hearing none, he asked for a motion to approve.

**A Motion was made by Trustee Allen and seconded by Trustee Corbett to Approve Consent Agenda Items 4A-C as presented.** Roll call vote: Trustees Hacker, Corbett, Allen, Zambetti, and Farrell voted Aye. 0-nays, 0-abstained. Motion carried.

**5. ITEMS FOR APPROVAL**

- A. A Motion to Approve Ordinance 08-2020, an Ordinance Amending the Fiscal Year 2020 Budget - Village Administrator Bourdeau noted that ordinance is necessary in order to adjust some budget amounts from FY ending 2020.

**A motion was made by Trustee Farrell and seconded by Trustee Corbett to approve Ordinance 08-2020, an Ordinance Amending the Fiscal Year 2020 Budget.** Roll call vote: Trustees Corbett, Allen, Zambetti, Farrell, and Hacker voted Aye. 0-nays, 0-abstained. Motion carried.

B. A Motion to Approve Resolution 22-2020, a Resolution Authorizing the Purchase of a Trailer Jetter from Standard Equipment in an Amount Not-to-Exceed \$65,968.00 - Village Administrator Bourdeau noted that this purchase is a capital item previously slated for purchase in FY2021, but has been moved forward due to issues related to the current COVID pandemic. Through a purchase cooperative, the Village was able to secure a lower price than was budgeted.

**A motion was made by Trustee Corbett and seconded by Trustee Allen to approve Resolution 22-2020 Authorizing the Purchase of a Trailer Jetter from Standard Equipment in an Amount Not-to-Exceed \$65,968.00.** Roll call vote: Trustees Corbett, Allen, Zambetti, Farrell, and Hacker voted Aye. 0-nays, 0-abstained. Motion carried.

C. A Motion to Approve Resolution 23-2020, a Resolution Authorizing and Approving the Release of a Limited Number of Building Permits in the Conservancy Development - Village Administrator Bourdeau noted that this resolution reflects the request by Gilberts Development, LLC, subsequent to the COW meeting of 7/14, for more building permits. He stated that the resolution represents the request of Gilberts Development LLC subsequent to discussion at the last meeting where we discussed numbers and milestones and was drafted on that basis, and does not necessarily represent any specific recommendation on the part of staff or of Ancel-Glink in regard to permit numbers or milestones.

Along with this resolution, the Board was supplied with an engineering analysis conducted by municipal engineer Albert Stefan of Robinson Engineering. Village Administrator Bourdeau indicated that Mr. Stefan's memo excludes certain other existing commitments, most notably the 40 permits committed to the twenty planned Gilberts Town Center duplexes which predate the Conservancy, and that the Village Board should take those into account when deliberating on the 140 permits indicated in the resolution before them, thinking of it as 100 instead of 140.

Administrator Bourdeau also indicated that the Conservancy development itself is not necessarily guaranteed capacity; the agreement grants the guaranteed capacity once the improvements are completed. He noted that the Board may wish to be cautious about guaranteeing capacity and potentially over-extending itself through the issuance of permits since, if something were to happen to the development and the developer, the Village could be at risk of having to provide those connections and capacity to the new project owner.

Administrator Bourdeau also pointed out that the Tollway crossing permit expires in December of 2020.

Mr. Stefan provided a summary of his analysis memo for the Board. He noted that usage has gone up in recent months and that the numbers do not incorporate July usage. Mr. Stefan elaborated on terms used in the memo, including the concept of critical review per the IEPA, and the word "chokepoint" which refers to any area within the water system where capacity has reached 80% of its Limiting Capacity Factor (LCF). Depending on where any changes or improvements are made to the water system, the chokepoint could shift to a different place in the system. Mr. Stefan also noted that the 3-year average typically serves as a predictor of water usage.

President Zirk invited the Board to present questions.

Trustee Corbett asked Mr. Stefan whether the numbers provided in his memo regarding critical review affect the available volume. Mr. Stefan responded that the limiting factor or “chokepoint” is based on well #3 which has a capacity of only 925 gallons per minute, or 1.368 million gallons per day based on data from January through June 2020, and the 80% threshold that would place us in critical review status would be based off of that number minus 11.8% to 12% of expected system loss due to backwashing and other unaccountable flow. Trustee Corbett asked Mr. Stefan for confirmation that, if critical review is 965,000 and maximum demand is 905,000 per the 3-year average, that leaves 60,000 gallons which, based on the population equivalent of 3.7 gives us 162 potential units. Mr. Stefan indicated that there is a formula for arriving at the number Trustee Corbett wishes to clarify, but that his estimate is approximately correct if we use the 3-year average.

Trustee Hacker asked Mr. Stefan about our commitments to all current and future water customers within the Village, and how our granting of the number of permits requested could impact them. In response, Mr. Stefan elaborated on the concept of critical review status as described in his memo, noting that, should capacity reach a certain level, the IEPA places the Village on a list wherein it carefully examines each construction permit to gauge respective impacts on the Village’s overall water system capacity in the interest of not overcommitting. The IEPA would then decide whether or not to allow the permit. Trustee Hacker then asked what would happen if we were to receive a building proposal requiring water, such as for the parcel at the corner of Tyrell and Route 72 across the street in any direction from the Shell station, while under critical review status. Mr. Stefan said it would depend on several factors, but that if we were under critical review, we would have to deny the permit.

Trustee Hacker noted that the resolution before us would allow for the granting of an additional 95 building permits immediately, and an additional 44 once well #6 was electrified, for a total of 139, but that we would be in critical review status at the granting of 100 additional permits. This scenario causes him concern. According to the annexation agreement, the two wells and the expansion of the water treatment plant was supposed to be done in June 2018, making us two years and one month behind schedule on that. We had already granted 123 permits, then Gilberts Development LLC asked for more and we granted an additional 51 in exchange for immediate progress on the completion of the water treatment plant, which didn’t happen. Now here we are a third time with another ask in front of us which potentially puts us in danger of entering critical review status in which we potentially wouldn’t be able to approve a retail proposal. The weak link, he said, is well #3. He stated that with each new grant of more permits in exchange for no progress, we are increasingly backing ourselves into a corner. In the event a new owner were to take over the project, they could sue the Village for system connections we’ve already approved through the issuance of these permits.

President Zirk advised that the challenge is to “thread the needle,” by identifying the level of acceptable risk under which we feel we can grant Gilberts Development LLC enough permits to move forward with construction without putting the Village on the IEPA’s critical review list.

Discussion followed in regard to data in Mr. Stefan’s analysis which indicates a rising rate of water consumption from January through June, what the reasons for that might be, and what that means in terms of likely uptake going forward.

Trustee Farrell noted that, even with wells coming online, the system’s plant doesn’t have the necessary capacity.

Discussion followed which identified the wells, the plant, and the treatment center all being potential chokepoints to consider in determining how to move forward with the granting of permits

and a construction plan that will move the Conservancy forward while keeping us off the IEPA's critical review list.

President Zirk stated that the degree of capacity between wells #3 and #4 and the treatment plant is marginal and that if we put well #6 online, it has more capacity than well #4 which would make our chokepoint well #4 instead of well #3. He indicated he has asked Al Stefan how much increased capacity that and other such adjustments would gain us, and whether, if we make these other adjustments, we would be able to push that capacity number up. He said the problem is that with such an approach we are trying to make hundreds of tweaks that would only generate dozens of permits. He compared the water system to a chain in which the links have different strengths. The weakest link right now is supply because of wells #3 and #4, but we could solve that problem with the activation of well #5 which then moves the chokepoint, or weakest link, and the difference between the two weak links isn't enough to make the changes we would want to get to, per his conversation with Village Engineer Al Stefan. President Zirk added that he believes we can solve the supply problem pretty easily because Mr. Mertz is within two months of getting the new well on line.

Mr. Stefan noted that we don't know the capacity of the two new wells yet. We've got only a rough idea because of the draw down and the capacity but until we actually begin running those pumps and seeing what actual numbers we can get out of the ground, it would be naïve to assume the result would be anything better than what we'd get with the existing wells. So our critical point is the treatment plant no matter what and that can't change until everything is running and operational.

Trustee Allen asked Mr. Stefan whether, if we were to bring well #6 on line in addition to wells #3 and #4, the water treatment plant would be capable of treating the capacity of water that would be generated in such a scenario. Mr. Stefan said it would be capped off at 1.4 million gallons, so the increase in treated water capacity would be marginal.

Trustee Farrell stated to Mr. Stefan that, while we've talked about wells a lot, it seems the plant expansion is the critical point here. Mr. Stefan confirmed that is correct.

Trustee Corbett sought to clarify and summarize that the plant is the next critical point after the current chokepoint of well #3, and that if we got another well online, it could produce 1.4 million gallons, and then the next chokepoint would be the water treatment plant.

Trustee Allen expressed concern regarding the lack of timeframes in this proposal.

Trustee Hacker asked Mr. Stefan about the age of wells #3 and #4, and a previous well failure and why we didn't fix it at the time. President Zirk stated that we didn't repair the problem at the time because, with the prospect of new wells coming online, we thought there was a good chance we could just abandon one of those older wells eventually rather than spend a lot of money on rehabbing.

Discussion followed in which it was recognized that we would be in better shape from a redundancy standpoint if wells #5 and #6 were online by now. Trustee Hacker noted that this is especially true because of the age of wells #3 and 4, and given the fact that one of them has already failed in the past. Mr. Stefan noted that if we can get well #5 online, we could make proactive decisions, rather than reactive. He stated that this is something he would urge us to strongly take a look at.

Mr. Mertz thanked the Board and said he appreciates consideration of the request he made two weeks ago to let the project move forward. He said agrees that the plant was not built according to what we had agreed upon and that he is here seeking some relief from what had been previously agreed to.

Trustees Farrell, Hacker, Allen and Corbett indicated that they did not feel they could approve the permit numbers requested in the resolution currently before them. Trustee Corbett again asked Troy Mertz of Gilbert LLC what he felt was the smallest number of permits he needed to move forward. Mr. Mertz indicated he needed 35 permits to get Ryan homes to reopen their sales center, and an additional 60 for townhomes.

Trustee Corbett suggested that the math involved with the current request doesn't seem to work and so this request is a non-starter for him. He stated that a more concise plan and path forward needs to be brought before the Board.

Trustee Allen concurred that we don't want to kill progress, but approving what has been presented this evening without more specific data that includes dates, timelines, and funds tied to specific obligations is unlikely. She told Mr. Mertz that, when at the last meeting when the Board identified the problems and directed staff to meet with him, her expectation was that he would present this evening a proposal that was more specific and feasible for moving forward. She also requested clarifications of how Mr. Mertz defines a well that is "electrified" versus one that is operational. Also in the current proposal, there is a reference to the plant being "commenced," and given that we are coming into the autumn season soon, how does that bode for it being operational any time soon? She noted that, if we grant this to Gilberts Development LLC this evening, they'll have 253 permits and we'll have a system that is over capacity with a water treatment plant that is unable to handle that capacity. She stated that the potential exists, if we enact this proposal, that there will be no potable water when we turn on our taps.

President Zirk stated that, in fairness, this situation is not solely the fault of the Conservancy. He said the Village oversold capacity 15 years ago with Neumann Homes, thinking at the time that it would fix a lot of ills. He said that we are still trying to come up with a way to resolve this issue without it falling on the backs of the residents. He indicated that, by committing to the permits, we're also committing legally to the capacity being available in the event that Gilberts Development LLC defaults. But if another entity was to buy the Conservancy from Gilberts Development LLC, they would be held to the commitment of finishing out the plant, just as Gilberts Development LLC is today. He stated that he would prefer the Board not say no, but instead that it ask Gilberts Development LLC to go back and try to figure this out with Al Stefan's memo from Friday night in mind. He said that this development has posed huge challenges to use in the past and we've guided it through to this point and we should be able to get it through this issue, as well, and that we just have to once again thread the needle.

Trustee Farrell agreed that we've threaded the needle on this several times, but that each time Gilberts Development LLC has pulled the thread out and here we are talking about it two years after it was supposed to be completed. She noted that Trustees Corbett, Allen, Hacker and she have all expressed frustration about it. President Zirk indicated that while he does not know what the way forward is, he would prefer that the Board not stop trying to work with Gilberts Development LLC to move this forward. He wants Gilberts Development LLC to work with staff and that our focus should be to try to get the project done, rather than kill it.

Trustee Allen reiterated that she hopes staff and Gilberts LLC can go back and hammer it out to arrive at something that is not unreasonable because, as of this evening, the proposal before them is unacceptable.

Mr. Mertz reiterated that he now needs 35 building permits for single family to get Ryan homes to reopen their sales center, and an additional 60 for townhomes, and that's why the original proposal was for 95 townhomes. He stated that this would represent the first time since he took ownership

of the project in 2012 that he could be working on two phases simultaneously, and he is trying to begin this while the construction season still provides him the opportunity to move dry dirt. Mr. Mertz went on to describe the monetary commitments he has made to the project and to the Village and expressed that frustration that it hasn't worked out for him or the Village, and acknowledged that it has not gone according to plan. He added that he has no excuse for why it hasn't gotten done and accepts the blame, but that he remains committed to completing it. He intends to once again move some dirt at his own risk in the interest of progressing while the weather is accommodating.

Conversation ensued between Mr. Mertz and President Zirk about financial commitments and obligations relating to what is required to get financing, the difference in value of the property to the bank with and without permits issued, and potential complications with collateral and SSA payments, and so on.

Trustee Corbett told Mr. Mertz that we are willing to work with him but we are not willing to gamble everything. He stated that he has some ideas that might make this more palatable for the Board but some of Gilberts Development's steps to reach the common goal we share may have to change. He suggested the Board's next milestone should be to push for the activation of wells #5 and #6 and that should be Mr. Mertz's priority as well. Mr. Mertz stated that he has an electrician working on well #6 as of Saturday and has been provided a 7-week plan for the electrification of that well by the electrician. Trustee Corbett will issue an email tomorrow morning to organize more discussions and planning between the Board and Gilberts LLC.

Recognizing that the plant must be completed and at least one of the new wells needs to be brought online in order to handle the additional capacity, no motion was made on the current resolution. Mr. Mertz was told to work with the Village Board, staff, and Mr. Stefan and come back to the Board with a proposal that will work.

## 6. ITEMS FOR DISCUSSION

There were no items for discussion at this time.

## 7. STAFF REPORTS

### Village Administrator Bourdeau

Regarding next week's COW:

- The mini warehouse facility located behind the public works building is looking for generally applicable ordinance changes that may be outside of the Plan Commission review process. The property owners are currently trying to determine whether they want to subdivide the property and will need to work that out prior to the Village determining whether this is a matter for the Plan Commission first.
- The owner of the Shell gas station may be coming before the Board to ask for consideration of expanding his operation's number of gaming unit licenses from 6 to 10, because the State of Illinois classifies his operation as a truck stop due to his total site acreage meeting their threshold for that classification. The additional corner property that he owns, and that would classify him as a truck stop, could otherwise be used as valuable retail property.

The Movie-in-the-Park can go forward, but may cost in excess of \$1,000. Staff is reviewing options and alternate vendors.

The improvements at Waitcus Park can include new amenities, or refurbishing of the amenities that are currently in place, to be discussed at an upcoming committee of the whole meeting.

Public Works Director Aaron Grosskompf

- Director Aaron Grosskompf noted that his department had discussions with a naturalist on how to maintain the bioswale at Town Center Park without diminishing its effectiveness as a natural drainage option, and that the necessary measures will be taken to improve the aesthetic.

Finance Director Taunya Fischer

Finance Director Taunya Fischer had no report at this time.

Deputy Clerk Phillip Versten

Deputy Village Clerk Versten had no report at this time.

**8. TRUSTEE REPORTS**

Trustee Allen

- Trustee Allen noted that since Community Days was cancelled this year due to Covid-19, she would be checking with staff to see when there was availability at village hall to complete and finalize the 2020 Community Days binder and hope 2021 would be a better year for the event.

**9. PRESIDENT'S REPORT**

President Zirk passed along greetings to everyone on the Board from retired Chief Lou Rossi.

**10. EXECUTIVE SESSION\***

An executive session did not take place.

**11. ADJOURNMENT**

There being no further public business to discuss, **a Motion was made by Trustee Allen and seconded by Trustee Corbett to adjourn from the public meeting at 8:33 p.m.** Voice vote carried unanimously.

Respectfully submitted,



Phillip Versten  
Deputy Village Clerk