

APPROVED  
**LAKE ZURICH BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**70 East Main Street**

Monday, April 21, 2008, 7:30 p.m.

**1. CALL TO ORDER AND ROLL CALL**

The meeting was called to order at 7:40 pm.

Present were Village President Tolomei, Trustees Branding, Callahan, Johnson, Poynton, and Taylor. Also present were Village Administrator Vitas, Village Attorney Mueller, Assistant Public Works Director/Engineer Heyden, Park Director Perkins, Building/Zoning Director Peterson, Police Chief Urry and Finance Director Zochowski. Trustee McAvoy was excused.

**2. PLEDGE OF ALLEGIANCE - Lake Zurich American Legion Post #964**

The Lake Zurich American Legion Post #964 led the meeting with the Pledge of Allegiance.

**3. PRESIDENT'S REPORT**

A. Proclamation, *Lake Zurich American Legion Post #964, 60<sup>th</sup> Anniversary, April 26, 2008*

A proclamation honoring the 60<sup>th</sup> anniversary of the Lake Zurich American Legion Post #964, was read by Village Clerk Palmlad. Many of it's members were on hand to celebrate this milestone.

B. *Kathleen Rickert Nelson Fine Art*, presentation of drawings of President Lincoln's Cottage to Village of Lake Zurich

Ms. Rickert Nelson was unable to attend tonight's meeting. This item will be tabled until further notice.

C. Proclamation, *Arbor Day, April 26, 2008*

A proclamation recognizing April 26, 2008 as Arbor Day was read by Village Clerk Palmlad. In celebration of Arbor Day, the Park Department is holding a park cleanup and tree dedication for Saturday, April 26th from 9 am to noon at Paulus Park. Everyone is invited to attend and a barbecue will be held immediately following for all those who volunteer.

D. Proclamation, *Municipal Clerks Week, May 4 through 10, 2008*

A proclamation recognizing May 4<sup>th</sup> through May 10<sup>th</sup> as Municipal Clerk's Week was read by Village President Tolomei. Both Village Clerk Palmlad and Deputy Village Clerk Ragsdale were thanked for their hard work and dedication.

**E. Proclamation, *Building Safety Week, May 5 through 11, 2008***

A proclamation recognizing May 5<sup>th</sup> through May 11<sup>th</sup> as Building Safety Week was read by Village Clerk Palmbald.

**4. PUBLIC COMMENT**

Administrative Vitas announced public comments would be limited to three minutes.

Claudette Dyback, 205 W. Main Street, suggested the five story condominiums proposed for the Nestlerest property be built at Breezewald Park, across from President Tolomei's house. This proposed development will block the view of the lake from the residents along Robertson Road. Ms. Dyback suggested President Tolomei has a conflict of interest since he holds realtor's license.

President Tolomei explained the history behind the proposed development of townhomes at Breezewald and how the residents voted to make it a park. He also explained his reasons for holding a realtors license.

Nancy Stephens, 129 Robertson Road, believes the Nestlerest project would be a "win, win" solution for the Village if the development was built on the property known as Breezewald Park.

Jeff Halen, 154 S. Pleasant, is not opposed to the installation of red light cameras at major intersections, but questioned where the revenue would be allocated in the budget and wondered why GATSO was chosen over Red Speed.

Wendy Dau, 75 Robertson, read a prepared letter expressing her concerns about safety, spot zoning, and possible vacancy. Ms. Dau presented Clerk Palmbald with a petition containing 478 signatures.

Judy Thode, 52 Robertson, is concerned residents along Robertson will lose more of their property to road improvements, as they did when Route 22 was expanded.

Stephanie Halen, 154 S. Pleasant Road, does not believe this development fits in this neighborhood and would have an impact on all Lake Zurich residents.

Chad Dau, 75 Robertson, read an email he sent to all the Trustees. He does not believe the views from the condos will be worth \$300 a square foot and is concerned property values in this area will decrease. Mr. Dau suggested eminent domain would be instituted.

Anthony Mizdrak, 115 Robertson, shares a driveway with the Nestlerest property. He pointed out there are no five story buildings in the middle of a residential area in any surrounding village. Mr. Mizdrak is questioning whether Mr. Smith has a license to operate in the state of Illinois.

Dale Dettlaff, 108 Robertson, questioned whether any Board members have any business relationships with ESG and whether a signed contract has been received.

Scott Kuba, 204 N. Old Rand Rd., confirmed President Tolomei's comments on the history behind Breezewald Park. Mr. Kuba strongly believes the developer of ESG proposed a 5 story building for Nestlerest, because the Grandview was approved as a five story building.

Frank Johnstone, 1095 Brush Hill, stated we need to focus on transparency and abide by the zoning codes.

Debbie Lind, 5 Ironwood Court, questioned how much the Village has spent in legal fees on the TIF and the amount of property taxes that would be collected from this development.

Charlene Knudson, 6 Ironwood Court, opposes this development, is concerned about property values decreasing, and reiterated the Village needs to abide by its zoning codes.

Nancy Spear, 69 Robertson Road, questioned whether any other sights were considered for this development. The current owner proposed a project many years back and was rejected because of density. Ms. Spear wonders what makes this project any different.

Lisa Bilotti, 4 Ironwood Court, asked if a contingency plan was in place should the developer withdraw during construction and what financial risks the Village would incur due to this development. Additional petitions were submitted to Clerk Palmlad.

Debbie Dettlaff, 108 Robertson, thanked the Board for their transparency on how this project would move forward. The drawings presented were very vague and hopes more information will be available at the April 22<sup>nd</sup>'s meeting.

Jim Tarbet, 1195 Cedar Creek Drive, agrees this project should not go forward. When downtown was being designed, it stated no other five story building would be built. Mr. Tarbet volunteered to serve on a committee to help plan the downtown.

Cheryl Grever, 68 Robertson, stated other projects for this property have come before the Board previously, but was told to come back when the project conforms to R-4. The project proposed by Mr. Smith does not meet the R-4 requirements.

Jim Spears, 69 Robertson, mentioned the developer believes the best location for this development is by the lake; however, few condos would have views of the lake.

Jamie March, 65 Robertson, purchased their home with plans to live and raise their family in Lake Zurich assuming the property on this street would stay zoned R-4.

Village President Tolomei addressed questions raised by the residents during public comment. A full explanation of the review process was given so everyone could understand why the drawings were vague and missing detail. The Village of Lake Zurich would not contribute any funds to have this project developed, eminent

domain is not being considered, no contract is in place, nor do any Board members have an interest in the ESG.

Some residents raised questions about the current zoning, so Trustee Poynton requested clarification whether this property was zoned R-4 or R-6. The most recent zoning map shows R-4 said Trustee Branding.

Trustee Taylor addressed the question on red light cameras. Chief Urry explained the revenue is not in the budget, since the focus is on safety. Staff did an extensive study and proved GATSO to be the better product.

At last week's Planning & Development Committee meeting, it was recommended this project go forward. It was obvious to all Board members, these plans were not ready to be reviewed by the Plan Commission. Some Board members wanted to wait, before taking action, until the outcome of the meeting being held at Village Hall on April 22<sup>nd</sup>. Trustees will be present at Mr. Smith's informational meeting, regarding Nestlerest; however, Trustees will not be allowed to engage in any discussion regarding this project so as not to be in violation of the Open Meetings Act.

## 5. APPROVAL OF MINUTES

### A. Regular Village Board meeting April 7, 2008

Trustee Branding requested the Consent Agenda, item C, page 4, be amended to include "*which was the lowest total amount among the solicited quotes*",

MOTION was made by Trustee Johnson, seconded by Trustee Branding, to approve the minutes of April 7, 2008.

Voice vote, all in favor. MOTION CARRIED

## 6. CONSENT AGENDA

### A. Warrant dated April 21, 2008. The Finance Committee recommends approval and the Board of Trustees approves the Warrant dated April 21, 2008 in the amount of \$1,051,896.09 which includes the following items over 5% of the total:

1. Bank of New York	\$258,884.39	24.61%
2. Manusos General Contracting	\$229,198.49	21.79%
3. Lake County Public Works	\$132,221.55	12.57%
4. Maxim Construction Corp.	\$77,435.11	7.36%

### B. Ordinance establishing a recapture fee at 267 East Lane for water & sewer improvements. The Public Works Committee recommends approval and the Board of Trustees approves AN ORDINANCE ESTABLISHING A RECAPTURE FEE FOR CERTAIN WATER MAIN AND SANITARY SEWER IMPROVEMENTS AT 267 EAST LANE. (Assign ORD. #2008-04-556)

### C. Reject Bids for the 2008 Street Maintenance Program, rescind Resolution 2008-02-19A. The Public Works Committee recommends rejection and the Board of Trustees rejects the bids received on February 12, 2008 and rescinds Resolution #2008-02-19A which allocated MFT funds to the program.

- D. Disposition of 2008-09 Motor Fuel Tax funds. The Public Works Committee recommends approval and the Board of Trustees approves the usage of available MFT funds for miscellaneous road maintenance repairs.
- E. Repeater Radio equipment purchase from Federal Emergency Management Grant. The Public Safety Committee recommends approval and the Board of Trustees approves the purchase of radio equipment from Motorola in the amount of \$22,443.40 and waiving of the formal bidding process.
- F. Emergency Telephone Systems Board agreement. The Public Safety Committee recommends approval and the Board of Trustees approves An Intergovernmental Agreement Between the Village of Lake Zurich and the County of Lake for the funding of Enhanced 9-1-1 Wireless Emergency Telephone Call Taking Service.
- G. Fiscal Year 2008-09 Budget . The Finance Committee recommends approval and the Board of Trustees approves AN ORDINANCE ADOPTING THE BUDGET OF THE VILLAGE OF LAKE ZURICH, LAKE COUNTY, ILLINOIS FOR ALL CORPORATE PURPOSES FOR THE FISCAL YEAR COMMENCING ON THE FIRST DAY OF MAY 2008 AND ENDING ON THE THIRTIETH DAY OF APRIL 2009. (Assign ORD. #2008-04-557)
- H. Amendment to Municipal Code to permit Liquor License Class C to LaRosita, 53 S. Rand Road, and Class B to Papagus Gyros, 454 N. Rand Road. The Committee of the Whole recommends approval and the Board of Trustees approves AN ORDINANCE AMENDING THE LAKE ZURICH MUNICIPAL CODE RELATED TO THE NUMBER OF AUTHORIZED LIQUOR LICENSES. (Assign ORD. #2008-04-558)
- I. Newsline, May issue. The Committee of the Whole recommends approval and the Board of Trustees approves this edition of the *Newsline* as presented including the Mayor's Column.
- J. Resolution for Lions Club request to hold Alpine Fest, July 18, 19 & 20, 2008. The Committee of the Whole recommends approval and the Board of Trustees approves the Lions Club request to hold the Alpine Fest and A Resolution seeking permission from IDOT for closure of roads for the Annual Alpine Parade, July 20, 2008. (Assign RES. #2008-04-21A)

MOTION was made by Trustee Taylor, seconded by Trustee Branding, to approve the Consent Agenda as read.

AYES: 6 President Tolomei, Trustee Branding, Callahan, Johnson, Poynton, and Taylor

NAYES: 0

ABSENT: 1 Trustee McAvoy

MOTION CARRIED

## 7. ADMINISTRATOR'S REPORT

- A. North Star Packing LLC, 320 E. Main Street, withdrawal of application. Village Administrator Vitas announced a lease agreement could not be reached between the property owner and North Star Packing. Their application at this time has been withdrawn.

**8. ATTORNEY'S REPORT**

No comment.

**9. COMMITTEE AND TRUSTEE REPORTS**

Trustee Johnson attended a meeting last Saturday at the Village of Hawthorn Woods. Mayors Hunt and Darch, Congresswoman Bean and State Representative Sullivan were in attendance to discuss strategies surrounding the Canadian National acquisition of the EJ&E railroad. Congresswoman Bean has been working with Illinois legislators and legislators from Indiana and Wisconsin, to try and influence them to see the negative consequences of this purchase.

Mayor Darch of Barrington invited President Tolomei to attend the CN shareholders meeting on Tuesday, April 22<sup>nd</sup> to hear more about their expansion plan.

**10. OTHER BUSINESS**

A. Automated Red Light Program. Consideration of a contract with GATSO subject to establishment of local administrative adjudication system.

The agreement between GATSO and the Village of Lake Zurich has been reviewed by Police Chief Urry, the Village Attorney and Village Administrator Vitas. Acceptance of this agreement is the first step of a three step process. Any funds derived from this program will be directed to the General Fund unless re-allocated by the Board.

MOTION was made by Trustee Taylor, seconded by Trustee Callahan, to accept the terms of the contract with GATSO subject to establishment of local administrative adjudication system.

AYES: 5 Trustees Branding, Callahan, Johnson, Poynton, and Taylor

NAYES: 0

ABSENT: 1 Trustee McAvoy

MOTION CARRIED

B. Courtesy review referral. South Shore Real Estate Development, LLC, Nestlerest redevelopment on Robertson Avenue - request for Planned Unit Development, rezoning, site plans, and exterior appearance.

Planning & Development Committee Chairman Callahan had recommended last week this item move forward without recommendation. A meeting between the residents and developer is scheduled for Tuesday, April 22<sup>nd</sup>. Because of the extreme change in zoning, density, and preliminary plans, Trustee Callahan would like to consider tabling this item for two weeks before sending to the appropriate Boards and Committees for review.

All of the Board members were given the opportunity to state their views. Most agreed the plans needed more work, had density and zoning issues, all of which should be resolved before moving forward.

MOTION was made by Trustee Branding, seconded by Trustee Johnson, to move the South Shore Real Estate Development forward to the Plan Commission.

Discussion continued. If the Board votes against this project moving forward to the Plan Commission and the project is summarily denied, the proposed development cannot be brought forward again for two years unless the project is significantly different than originally proposed. Village Attorney Mueller explained that if this was the Village's intention, a written report and ordinance should have been drafted, in preparation of this action, in order to protect the Village from possible litigation.

Due to this information, President Tolomei suggested the motion and second be withdrawn.

RECESS: The meeting recessed from 9:34 to 9:40 pm to change the videotape and resumed with all members present.

President Tolomei reminded the Board of the practice to provide notice when summarily denying a project and allow the developer to withdraw plans before suffering the two year waiting period.

Trustee Johnson withdrew his second to allow time for the petitioner to rework his plans before going forward to the Plan Commission.

MOTION FAILED for lack of second.

MOTION was made by Trustee Callahan, seconded by Trustee Taylor, to table this Courtesy Review for two weeks.

Trustee Branding requested clarification on whether another project could come forward for this property if this plan was summarily denied. Village Attorney Mueller explained what could potentially happen. Trustee Branding is requesting a project come forward that fits the R-4 zoning codes.

AYES: 2 Trustees Callahan and Taylor

NAYES: 3 Trustees Branding, Johnson and Poynton

MOTION DENIED

MOTION was made by Trustee Branding, seconded by Trustee Taylor, to move the South Shore Real Estate Development, Nestlerest redevelopment, forward to the Plan Commission.

Village Attorney Mueller clarified that if the Board wishes to kill this project this evening, a vote to summarily deny is the way to get this accomplished.

Trustee Taylor withdrew his second.

MOTION FAILED for lack of second.

President Tolomei stated no action will be taken since no action is required.

MOTION was made by Trustee Branding to summarily deny the South Shore Real Estate Development, Nestlerest redevelopment.  
MOTION FAILED for lack of second.

C. Comcast Franchise Agreement. The Committee of the Whole recommends approval and the Board of Trustees approves the Cable Television Franchise Agreement By and Between Comcast of Illinois/West Virginia, LLC and the Village of Lake Zurich, Illinois with modifications as suggested by staff and attorney.

Item C was tabled for two weeks.

D. Mionske Pond, request for Illinois Environmental Protection Agency extension. Consensus of Village Board to authorize staff to work toward a permanent solution for Mionske Pond, proceeding with Alternative 3 as described in Public Works Director Heyden's memorandum dated April 9, 2008.

Public Works Director Heyden has begun his official response and extension request to the USEPA and is currently being reviewed by the Village Attorney.

## **11. EXECUTIVE SESSION** called for the purpose of discussing litigation.

MOTION was made by Trustee Taylor, seconded by Trustee Poynton, to adjourn to Executive Session and not reconvene to open session.

AYES: 5 Trustees Branding, Callahan, Johnson, Poynton, and Taylor

NAYES: 0

ABSENT: 1 Trustee McAvoy

MOTION CARRIED

## **12. ADJOURNMENT**

The meeting adjourned at 9:53 pm.

Respectfully submitted: *Gloria M. Palmlad, Village Clerk*

Approved by: \_\_\_\_\_

President John G. Tolomei