

CORRECTED

**LAKE ZURICH BOARD OF TRUSTEES
REGULAR MEETING
70 East Main Street
Monday, October 5, 2009**

1. CALL TO ORDER The meeting was called to order at 7:02PM.

2. ROLL CALL

Present were Village President Branding, Trustees Halen, Johnson, Poynton, Sprawka and Sustich. Excused: Trustee Rzeznik. Also present were Village Administrator Vitas, Village Attorney Burkland, Police Chief Finlon, Fire Chief Mastandrea, Finance Director Zochowski, Public Works Director/Engineer Heyden, Human Resources Manager Pankiw, Director Perkins, and Building/Zoning Director Peterson.

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENT - None

5. PRESIDENT'S REPORT

A. Certificates of recognition from Police and Fire Departments

Deputy Fire Chief Wheelock read a summary of an auto accident that occurred on September 22, 2009 off of Midlothian Road south of Old McHenry Road. Witnesses Mark Marcinkiewicz and David Grigsby acted to assist the driver. Resident Mike Mahne joined the other two and assisted the driver out of car before it was engulfed in flames. The three men were awarded a Certificate of Appreciation for exemplary performance signed by President Branding, Fire Chief Mastandrea, and Police Chief Finlon and commended for their actions.

B. Lake Zurich Area Business Survey – No Report

6. CONSIDERATION OF MINUTES

A. Committee of the Whole meeting, September 9, 2009

MOTION was made by Trustee Johnson, seconded by Trustee Poynton, to approve the Committee of the Whole meeting minutes of September 9, 2009 as presented. Voice vote, all in favor.

MOTION CARRIED

B. Minutes of the Special Board meeting, September 17, 2009

MOTION was made by Trustee Sustich, seconded by Trustee Sprawka, to approve the Special Village Board meeting minutes of September 17, 2009 as presented. Voice vote, all in favor.

MOTION CARRIED

C. Minutes of the Village Board meeting, September 21, 2009

MOTION was made by Trustee Sustich, seconded by Trustee Johnson, to approve the Regular Village Board meeting minutes of September 21, 2009 as presented. Voice vote, all in favor.

MOTION CARRIED

D. Executive session minutes dated April 20, May 18, June 1, June 8, June 29, July 6, July 20, August 3, August 17, August 24, August 31, September 8, and September 17, 2009

MOTION was made by Trustee Poynton, seconded by Trustee Halen, to approve the Regular Village Board meeting minutes of September 21, 2009 as presented to be reviewed for release to public after six-month review process is complete. Voice vote, all in favor.

7. CONSENT AGENDA – No Items**8. OLD BUSINESS****A. Ordinance Amending Code Provisions Regarding Committees. (Trustee Sustich - Tabled 9-21-09)**

Summary: The Board of Trustees has been considering amendments to the Village's Municipal Code to clarify the provisions related to special committees of the Board of Trustees; other boards or commissions advisory to the Board of Trustees; and task forces appointed by the Village President. This draft ordinance amends Section 1-4-7 of the Code to provide that new special committees of the Board of Trustees may be designated and established by the Village President with the advice and consent of the Board of Trustees and also may be established by the Board of Trustees directly. The Village President retains her standard authority to appoint task forces that are advisory only to the President and not to the Board of Trustees. This draft ordinance also amends Chapter 8 of Title 2 of the Code to provide for establishment of additional boards or commissions advisory to the Board of Trustees. The establishment procedure is similar to establishment of special committees of the Board of Trustees. The new Chapter 8 includes, among other things, requirements that the duties and term of an advisory committee be set at the time the committee is established. The new Chapter 8 replaces old provisions related to an old downtown development commission that long ago dissolved.

MOTION made by Trustee Sustich, seconded by Trustee Poynton, to pass an ordinance amending the Lake Zurich Municipal Code related to Board Committees, Task Forces, and Board Advisory Committees. (Ordinance #2009-09-658)

AYES: 4 Trustees Halen, Poynton, Sustich, and Sprawka

NAYS: 0

ABSTENTION: 1 Trustee Johnson

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

9. NEW BUSINESS

A. Installment of New Antennas at 200 Mohawk Trail

Summary: Towerco filed an application for approval of a special use permit to authorize installation of three new dish antennas at the existing communication tower located at 200 Mohawk Trail. The Plan Commission recommended approval of the application.

Building and Zoning Director Peterson said the work is progressing well. An 8-foot board-on-board fence will be installed and the tower painted.

MOTION made by Trustee Poynton, seconded by Trustee Halen, to approve an ordinance granting a special use permit for a cell tower at 200 Mohawk Trail. (Ordinance #2009-09-659)

B. Installment of New Antennas at 515 Capital Drive

Summary: Crown Castle International filed an application for approval of a special use permit to authorize installation of three new dish antennas at the existing communication tower located at 515 Capital Drive. The Plan Commission, at its September 16 meeting, recommended approval of the application.

MOTION made by Trustee Poynton, seconded by Trustee Halen, to approve an ordinance granting a special use permit for 515 Capital Drive (Crown Castle Tower). (Ordinance #2009-09-660)

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

C. Installment of New Antennas at 690 June Terrace

Summary: Crown Castle International filed an application for approval of a special use permit to authorize installation of three new panel antennas, three dish antennas, and an equipment cabinet at the existing communication tower located at 690 June Terrace. The Plan Commission, at its September 16 meeting, recommended approval of the application, subject to a condition that all outstanding permit work must be completed prior to the installation of the additional antennas and equipment cabinet recommended for approval. That condition is included in the proposed ordinance.

MOTION made by Trustee Poynton, seconded by Trustee Johnson, to approve an ordinance granting a special use permit for 690 June Terrace (Crown Castle Tower). (Ordinance #2009-09-661)

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

D. 35 South Shore Lane, Request for Permit for Variation for Patio

Summary: The owners of 35 South Shore Lane recently completed construction of a house on the subject property. The patio plan for the house changed from its initial design. Construction of the patio was commenced, but was stopped when it was discovered that the patio did not comply with yard requirements. The owners applied for a variation, requesting a reduction of the required rear yard to 10 feet from 20 feet. The Zoning Board of Appeals unanimously recommended approval of the application.

MOTION made by Trustee Poynton, seconded by Trustee Halen, to approve an ordinance approving a variation for 35 South Shore Lane. (Ordinance #2009-09-662)

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

E. 680 Pheasant Ridge Road, Request for Permit for Retaining Wall

Summary: The owners of 680 Pheasant Ridge Road applied for a modification of the requirements of Section 10-6-18E of the Land Development Code to permit a retaining wall up to 6 feet in height. After considerable discussion of drainage and safety matters at its meeting on September 16, the Plan Commission voted unanimously to recommend approval of a modification to allow a retaining wall up to 6 feet in height. The proposed ordinance requires the owner to solve the drainage and safety issues to the satisfaction of the Director of Public Works and the Director of Building and Zoning.

Building and Zoning Director Peterson said he and Public Works Director/Engineer Heyden met with the petitioner, and he will add a row of plant vegetation to form a barrier at the highest point of the wall.

MOTION made by Trustee Poynton, seconded by Trustee Sustich, to approve an ordinance approving a modification to the Land Development Code for a retaining wall at 680 Pheasant Ridge Road. (Ordinance #2009-09-663)

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

F. 1325 Ensell Road, Site Plan Approval for Parking Lot and Freezer Room Addition

Summary: Peapod, LLC applied for site plan approval for a parking lot expansion onto an adjacent lot and a 1,767-square-foot addition to its existing building. After a public hearing on September 16, the Plan Commission unanimously voted to recommend approval of the site plan for the parking lot expansion and freezer room addition. The site plan includes ample landscaping of the new improvements.

MOTION made by Trustee Poynton, seconded by Trustee Sprawka, to approve an ordinance approving Site Plans for 1325 Ensell Road. (Ordinance #2009-09-664)

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

G. 400 Oakwood and 325 Telser Roads, Site Plan, Exterior, and Permit for Retaining Wall Approvals for an Addition

Summary: Echo, Inc applied for site plan, exterior appearance plan, and retaining wall approvals for a proposed 127,338-square-foot addition to its existing facility. The proposed addition will face Rose Road on the south and require a larger detention pond requiring a 10-foot retaining wall. After a public hearing on September 16, the Plan Commission voted unanimously to recommend approval of the site plan, exterior appearance plans, and modification to the Land Development Code to permit a retaining wall up to 10 feet in height.

MOTION made by Trustee Poynton, seconded by Trustee Sustich, to approve an ordinance approving Site Plan, Exterior Appearance, and Modification to the Land Development Code for 400 Oakwood and 325 Telser Road (Echo Inc.) (Ordinance #2009-09-665)

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

H. 400 Oakwood and 325 Telser Roads, Courtesy Review of Text Amendments to Zoning Code Section 10-102

Summary: Echo, Inc., is proposing to construct a 127,338-square-foot addition to its facility located at 400 Oakwood and 325 Telser Roads in the Village's I-2 Limited Industrial District. The addition faces Rose Road and has 12 loading docks. Section 10-102 permits only one loading dock to face a public right-of-way. The situation warrants relief because Echo's property is bounded on all sides by public streets and there is not place for the proposed loading docks that does not violate the limitation. The applicant seeks relief through the proposed text amendment.

The proposed text amendment will be referred to the Plan Commission.

I. Semi-Monthly Warrant Register Dated October 5, 2009, Totaling \$1,089,061.22

Trustee Sprawka read the items within the warrant that exceeded 5% of the total warrant which include: Lake Zurich Fire pension Fund (29.58%), Lake Zurich Police Pension Fund (27.82%), Schaefges Brothers, Inc., (10.41%), and Fuerte systems, Inc., (9.45%).

Trustee Sustich thanked Director Zochowski for the report he provided. He asked about the funding of the police pension, and Director Zochowski provided clarification on the extension and levy rates. He said the Village will be over the budget by \$100,000 at the end of the year.

MOTION made by Trustee Sprawka, seconded by Trustee Halen, to approve the semi-monthly warrant register dated October 5, 2009, totaling \$1,089,061.22.

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

J. Professional Services for Utility Cost, Municipal Franchise, and Tax Audits

Summary: Azavar Solutions, Inc. submitted a proposal to perform utility cost, franchise fee, and tax audits at the most competitive cost among the qualified firms. The Village staff recommends that the Board of Trustees approve an agreement with Azavar to perform the work as set forth in Azavar's proposal and the fee schedule described in Finance Director Zochowski's memorandum.

MOTION made by Trustee Sprawka, seconded by Trustee Poynton, to approve an agreement with Azavar, Solutions, Inc. of Chicago, Illinois to perform Utility Cost, Municipal Franchise and Tax Audits as set forth in the proposal and Director Zochowski's memorandum.

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

K. Consultant Selection for Route 12 Force Main

Summary: The Village was awarded grant funding through the Illinois Department of Commerce and Economic Opportunity in the amount of \$480,000 when Governor Pat Quinn signed the capital bill earlier this year. This project includes replacement of approximately 2,300 feet of sanitary sewer main along Route 12 under Ela Road and the Canadian National Railroad. The Village received qualifications from several firms, which were reviewed in detail and compared to the proposed project for experience with the type of works and permitting agencies.

Public Works Director/Engineer Heyden reviewed his memorandum dated September 30, 2009, and said that each of the permits can be a lengthy and complicated process and it is important to have a firm with experience in all three of these specific permits. After review, staff found that only one firm had both the experience in directional drilling technology as well as extensive permitting experience with all three governmental agencies; therefore, staff recommends awarding the contract to Baxter & Woodman.

MOTION made by Trustee Sustich, seconded by Trustee Johnson, to approve a contract with Baxter & Woodman Consulting Engineers for the Route 12 Sanitary Force Main Replacement Lake Zurich Board of Trustees Agenda, October 5, 2009 Page 6 Project Replacement Project, subject to agreement of hours and approval of the final contract by the Village Attorney.

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

L. Letter of Credit for Country Club Plaza

Summary: The Village received a request from the developer for Country Club Plaza to release Letter of Credit 414. The Public Works Department and Engineering Division have inspected all the site improvements and found them to be acceptable. Because there are no dedicated public improvements, there is no maintenance warranty and the letter of credit can be released.

MOTION made by Trustee Sustich, seconded by Trustee Halen, to release Letter of Credit 414 in the amount of \$88,190.30.

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

M. Ordinance Amending the Lake Zurich Municipal Code Regarding the Administrative Adjudication System

Summary: Under Title 1, Chapter 8 of the Village's Municipal Code, the Village's administrative adjudication system currently has authority to adjudicate automated traffic law violations. The proposed ordinance amends Chapter 8 to (i) expand the administrative adjudication system to authorize adjudication of violations concerning the standing, parking, or condition of vehicles, (ii) authorize the imposition of a traffic education program requirement for certain violations of Title 6 of the Village Code, and (iii) authorize the imposition of a "violation penalty" on defendants found liable to help cover the administrative costs incurred by the Village in conducting administrative hearings. The draft ordinance also amends various sections of Title 6 to (a) enhance the Village's regulations concerning the condition of vehicles and (b) replace the existing informal and formal review process with the administrative adjudication process.

MOTION made by Trustee Johnson, seconded by Trustee Sustich, to pass an ordinance amending various sections of the Lake Zurich Municipal Code regarding the Traffic Code and the Administrative Adjudication System. (Ordinance #2009-09-666)

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED**10. TRUSTEE REPORTS**

Trustee Poynton made a comment regarding the *Newsline* that said Equity Service Group completed due diligence and that the information is available at the Village Hall for inspection without filing a FOIA request. Village Administrator Vitas reviewed the Village policy on the availability of public documents.

Trustee Sprawka provided an update on the *Blitz Build*, which is a home being built by volunteers at 287 Fairway.

11. ADMINISTRATOR'S REPORT

Village Administrator Vitas presented the highlights of his Quarterly Performance Reports for the period between May and July 2008. This report is based on the fiscal year budget and the operational goals for each department. He also reported the next steps to refine the mission and vision statement that had been worked at on September 12, 2009 at the Special Committee of the Whole meeting.

12. ATTORNEY'S REPORT

Village Attorney Burkland asked the Board if they wanted to take action to ban video gaming that is now permitted by State law. Staff was asked to provide further information including an estimate of potential income and what other towns have decided. Village Administrator Vitas will contact the NWMC and ask them to survey other towns. Involving the residents in this decision was also suggested.

This item will be tabled until the November 2, 2009 Board of Trustees meeting.

13. DEPARTMENT HEAD REPORTS

- A. Fire Chief Mastandrea reviewed the information on the new program for Village special needs individuals that live or work in the Lake Zurich area called the Premise Alert Program (PAP). The Lake Zurich Fire Rescue Department received notice of a \$4,999 grant award from the Illinois Department of Public Health that will be used to purchase two automatic external defibrillators (AED).
- B. Building and Zoning Director Peterson presented the highlights of the Economic Development Marketing Efforts report prepared by Planning Intern Nava.
- C. Police Chief Finlon said October 7, 2009, is *Walk to School Day*, and he will be participating.

14. ADJOURNMENT

MOTION was made by Trustee Sustich, seconded by Trustee Poynton, to recess into closed session to discuss matters related to pending litigation and personnel and review of closed session minutes and to adjourn immediately after the closed session without conducting further business.

AYES: 5 Trustees Halen, Johnson, Poynton, Rzeznik, Sustich, and Sprawka

NAYS: 0

ABSENT: 1 Trustee Rzeznik

MOTION CARRIED

The meeting adjourned at 8:30 p.m.

Respectfully submitted: Janet McKay, Recording Secretary

Approved by: /s/ President Suzanne K. Branding, 10-19-09