

**Village of Deer Park
Regular Board Meeting Minutes
November 18th, 2002**

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1. CALL TO ORDER

The Regular meeting of the Board of Trustees of the Village of Deer Park was held on Monday, November 18th, 2002 at Charles Quentin Elementary School in the Village of Deer Park, Lake County, Illinois.

Due to the absence of President Karl, Clerk Smith called the meeting to order at 8:08 PM. Upon roll call the following were present: Trustees Dowell, Gifford, Kizior, Plautz and Werch. Other Village Officials present were Engineer Gordon, Plan Commission Member John Lahr, Zoning Board of Appeals member Jack Honomichl, Administrator Diesen-Dahl, Clerk Smith, Attorney Hargadon and Attorney Stacey Rubin Silver. Clerk Smith declared a quorum.

Guests present were: Fred Chamberlain (Dover Pond Homeowners Association); Eric Peterson (Daily Herald); Fred Slingo (20140 Park Hill); Liborio Ferracane (109 Lois Lane); Jim Mozer (20212 Park Hill); Jim Kraner (113 Lois Lane); Karren J. Kirth (20390 Park Hill Drive); John Rodriguez (6060 Chestnut, Waukegan); Pat Ekstrom (511 Rue Royale); Mary Lahr (201 Rue Touraine).

MOTION: by Gifford second by Dowell to elect Trustee Werch as President Pro Tem. Upon voice vote:

YES: (4)

NO: (0)

ABSENT: (1) Karl

Motion Carried 4/0

2. AGENDA CHANGES AND ANNOUNCEMENTS

Janet Agnoletti, representing BACOG, will be moved to agenda item #6.

3. CONSENT AGENDA

- A. Minutes from the Regular Board of Trustees Meeting 10/21/02
- B. Minutes of the Plan Commission Meeting 11/4/02
- C. Pay Request #4 from DeKaf -- \$71,409.47
- D. Ordinance 02-21—Amending Chapter 161 Telecommunications Tax
- E. Cook County/Deer Park Signal Maintenance Agreement

MOTION: by Dowell second by Gifford to accept the Consent Agenda, noting the conditions placed on the Pay Request per Engineer Gordon's memo dated November 11th, 2002. Upon roll call:

YES: (4) Dowell, Gifford, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 4/0

4. VILLAGE MATTERS

A. Service/Anniversary Recognition

President Pro Tem Werch noted that the Village is celebrating its 45th anniversary, and thanked Trustee Benjamin, Zoning Board Chairman Herbert Matz, and Zoning Board of Appeals member John Morrissey for their service to the the Village. A recognition plaque was presented to Trustee Benjamin; Mr. Matz and Mr. Morrissey (not in attendance) will be sent their plaques.

B. Trustee Stephen Hegarty—Oath of Office

Clerk Smith administered the Oath of Office, and President Pro Tem Werch welcomed Trustee Hegarty to the Board.

5. FRED CHAMBERLAIN, DOVER POND HOMEOWNERS ASSOCIATION

Fred Chamberlain, President of the Dover Pond Homeowners Association presented request for expense sharing for maintenance of Village owned park area in the Dover Pond Subdivision. Dover Pond is also requesting upkeep of cul-de-sacs and entranceway be considered for cost sharing; believe these areas are also Village property. Board requested

copies of bill for Board review and breakdown of expenses be submitted. Tabled to next month for further review.

6. **JANET AGNOLETTI—DRAFT ORDINANCE IMPACT FEES**

Ms. Agnoletti, on behalf of BACOG, thanked the Board for efforts toward impact fees implementation, noting that the draft ordinance before the Board is a refinement of the BACOG draft ordinance. Ms. Agnoletti reviewed process by which BACOG created model draft ordinance.

Attorney Hargadon indicated that the Village, as a non-home rule community, can only act through the Illinois Municipal Code. Rights and powers not granted to the Village by the Code may not be defensible. School impact fees and park fees are included; fire district and library district impact fees are not included; as a result, they are excluded from the draft. Additionally, based on McHenry County litigation, fees must be used for site acquisition, not operations or building (constitutes narrow reading of the Statute). Process requires studies to review and identify reasonable impacts.

Attorney Hargadon highlighted differences between model BACOG ordinance (being presented Wednesday, November 20th by BACOG) and the draft presented for review by the Village tonight, as well as strategic highlights:

1. Village of Deer Park collects fees on behalf of parks and school districts.
2. Adjustment of fees—BACOG recommends CPI adjustments; Attorney Hargadon believes better to have school districts provide valid data on a regular basis for review.
3. Donations—actual property requires donors to provide environmental audit. If environmental problem exists, donor can clean up; Village ordinance changes to allow the Village the right to reject any property with a previous problem.
4. Changes to title and survey required.
5. Objection process outlined in BACOG deemed too lengthy and onerous by Village Attorneys.
6. Time of payment of fees—BACOG calls for time of subdivision or PUD Plat, irrespective of when build; Village draft ordinance calls for payment at time of building permit.
7. Village also needs to address issue of retroactivity of fees due.

Ms. Agnoletti raised the following points for the Board to consider:

1. BACOG report doesn't study issues of parks at levels and details needed to provide calculations for impact fees.
2. Agrees with CPI comments—included for districts who don't/can't supply data on a regular basis. CPI is intended as interim calculation.
3. Noted no enabling legislation for fire districts and library districts; however, many Villages do include these impact fees. Generally these fees are of a nature that do not inspire litigation. Attorney Rubin Silver noted that attorneys who drafted the BACOG model ordinance (Richard Flood) agree there is no legal precedent; however, they consider the exposure small. Attorney Hargadon noted that the Village of Deer Park has included fees to the fire district in the annexation process (a legally defensible option).
4. Dispute resolution process—used verbatim language proposed by developers. Designed to be lengthy to discourage litigation.
5. BACOG ordinance proposes payment at time of platting; reality is payment at time of building permit. BACOG recommends including payment at time of platting; use timing issue as leverage for voluntary approval of use of funds for other than site acquisition. Attorney Hargadon disagrees; legal decisions clearly call for nexus of timing of impact and payment.

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President Pro Tem Werch called for roll call vote of Board to determine if language requiring impact fees for fire and library districts should be included in the revised ordinance:

YES: Dowell, Werch

NO: Gifford, Kizior, Hegarty, Plautz

Board consensus costs be adjusted through revised school district data on the 3rd anniversary of the ordinance. Board agreed on stance in draft ordinance provided by Village Attorney regarding timing of collection (at building permit).

MOTION: by Gifford second by Dowell to direct Village Attorney to rewrite and resubmit, with base BACOG document and blackline copy, the draft ordinance O2-22: ordinance providing for the dedication of school sites and park lands or payment of cash contributions in lieu thereof.

Upon voice vote:

YES: (5)

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

Board discussed fact that impact funds not allowed for maintenance of, operation of, or addition to existing buildings in school districts. Ms. Agnoletti indicated that this issue is part of the BACOG legislative platform.

7. SHED DISCUSSION

MOTION: by Dowell second by Gifford to amend the shed and accessory buildings height requirement to allow 14 feet in height from the current 9 feet.

Upon voice vote:

YES: (3) Dowell, Gifford, Hegarty

NO: (2) Plautz, Kizior

ABSENT: (1) Karl

Motion Carried 3/2

8. BYS DONATION REQUEST

MOTION: by Gifford second by Dowell to donate \$1000 to Barrington Youth Services.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

9. SIKICH GARDNER—SEWER BILLING

Request for additional payment for time required over contract in sewer billings.

MOTION: by Dowell second by Gifford to authorize payment of \$862.50 to Sikich Gardner for additional time spent on sewer billing.

Upon roll call:

YES: (4) Dowell, Gifford, Kizior, Plautz

NO: (0)

ABSTAIN: (1) Hegarty

ABSENT: (1) Karl

Motion Carried 4/0/1

10. VEHE—HENDRICKSEN THE CARE OF TREES

MOTION: by Dowell second by Kizior to approve an expenditure of \$982.50 to Hendricksen the Care of Trees per invoice DC032738 dated 11/7/02 for the purchase and planting of trees at Vehe Farm.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

11. ENGINEERS REPORT

A. Park Hill Drainage Update

Engineer Gordon introduced Don Matthews of Gewalt Hamilton. Engineer Matthews noted that the objective of the work is to effectively drain the areas south of Lois Lane in a cost effective manner which has no adverse impact on surrounding properties or downstream properties. Engineers have completed topographic survey of the area; information overlaid on an aerial photograph. Engineers have met with homeowners' representative, Jim Mozer; checked easements available.

Engineers propose new storm sewer which would run from the pond north of Lois Lane extending to Lois Lane and continuing south. Two parts to system: northern portion of system to be directionally drilled from the pond to right of way of Lois Lane to minimize disturbance to landscaping and trees. South of Lois Lane sewer to be extended by conventional methods, continuing south until intercepting existing systems. Proposal is for multi-phase project, determined by functioning of existing system. First phase would include investigational work to determine condition of existing system. Second phase would incorporate grading required. Additional features may be incorporated, if needed, as monitoring indicates.

Engineers request Village authorize finalize drainage studies, draw up engineering plans, and take to bid. Plan is to do work in winter, with restoration work to occur in early spring. Bidding to take place after the first of the year, as this is selective work and pricing will be more favorable.

Preliminary cost estimate is \$80,000; actual cost may be lower if existing sewer to the north is in good condition.

Board Comments/Questions:

Trustee Dowell:

- a. Proposal include televising? Engineer Matthews-yes.
- b. Any indication of east/west laterals? Engineer Matthews-not as yet. Will design flexibility into system, so can be added if needed.
- c. Impact of standing with developer of Robinson Fields? Attorney Hargadon-none.
- d. Depth of pipe south of Lois Lane as proposed? Engineer Matthews—2-3 feet deep from proposed grade; may be lower, if needed.
- e. How can engineering tell if tile is damaged? Engineer Matthews—condition of water, silt, breaking of tile, and measuring of downstream impact.

Trustee Kizior:

- a. Need to convey water from the drainage swale along Park Hill? Engineer Matthews-was discussed as part of an alternative which was ultimately rejected due to grade required (both aesthetically displeasing and potentially dangerous).
- b. Safety margin engineered regarding level of ponds, and size of pipe? Engineer Matthews—confident calculated tributary area correctly, can adapt if encounter failed pipes/tiles causing high water tables.
- c.

Trustee Gifford: How much additional flow will there be to the pond? Engineer Matthews—none. Increase in rate in which water flows, but no increase in volume.

Trustee Hegarty: Did meeting with developer occur? Attorney Hargadon—developers' engineer was out of town for two weeks; setting up meeting. Have received a detailed response including commitment to make changes.

President Pro Tem Werch noted that Engineers' requests are approved via last months' actions.

Resident Comments/Questions:

Resident Don Wiskes disagrees with the idea that the problem is not Robinson Fields. Mr. Wiskes questioned what is being done regarding Robinson Fields to make certain proposal is not just pushing water from Robinson Fields to the pond. Engineer Matthews indicated that the Village is verifying that the developer adheres to Stormwater Management requirements.

Resident Jim Kraner asked if the culvert under Lois Lane would still be functional. Engineer Matthews indicated that this would depend on the condition of the current 24" pipe. Proposal is for dual pipes; current pipes would only handle severe storms. New lower pipe will lower water table. Mr. Kraner also asked if the new pipe would connect to the pipe in Mozer's yard. Engineer Gordon indicated it would not. New pipe would be lower. Engineer Matthews indicated that system is engineered for 10-year storms (norm).

Resident Jack Honomichl pointed out a gully through which he requested the flow of water be controlled. Burden downstream may preclude; will evaluate necessity.

- B. Maneval Final Pay Request – Plum Grove Road and Deer Park Blvd/Field Parkway
Final pay request—funds to come out of SSA and EDP funds. Request and recommend payment in the amount of \$210,304.22. Engineer Gordon noted total for project came in under estimates by \$80,628.77. Conditions for payment: review of lien waivers and submittal of maintenance bond. Includes payment of any/all retainage. Have received 95% of state EDP funds; final 5% due at final payment.

Have applied to transfer amount under budget towards Lake Cook or Rand Road/Plum Grove Road project. Attorney Hargadon thanked Engineer Gordon for pursuing transfer of funds

MOTION: by Dowell second by Kizior to approve payment of \$210,304.22 to Maneval Construction from SSA with conditions as outlined in the memo from Engineer Gordon dated November 12, 2002.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

- C. Rocks-Ann Construction Pay Request #1 – 2002 Storm Sewer Improvement Program
Spring thaw needed to determine if seeding is successful; recommend 5% retainage of payment until project can be finalized in the spring.

MOTION: by Gifford second by Kizior to approve payment of \$63,621.97 to Rocks-Ann Construction for 2002 Storm Sewer Improvements, payment on condition of obtaining waivers per memo from Engineer Gordon dated November 12, 2002.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

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D. Traffic Signal Maintenance Proposal

Proposal submitted in memo from Engineer Gordon dated November 4, 2002, regarding maintenance of traffic signals and street lights for which the Village is responsible. Attorneys and Engineers recommend pursuit of Option 1 as outlined in the memo.

MOTION: by Kizior second by Dowell to adopt Option 1 for Triangle Electrical Traffic Signal Maintenance as per the memo dated November 4th, 2002 from Gewalt Hamilton. Approximate cost to be \$130 per month or \$1,560 per year.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

E. J.U.L.I.E. Membership

New state law requires municipalities to enter into J.U.L.I.E. membership. Engineer Gordon has met with representative regarding details. Village is only obligated to cover sanitary sewer in the Triangle area. Lake Zurich would be responsible for locating services for the Village Office; Palatine would be responsible for locating water service within the Triangle. Engineer Gordon recommends creation of atlas at approximate cost of \$2,000.

MOTION: by Kizior second by Dowell to enter into an agreement with J.U.L.I.E. for membership at \$88 per year.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

MOTION: by Plautz second by Gifford to direct Gewalt Hamilton to complete an "as constructed" atlas to be used for J.U.L.I.E. at a cost not to exceed \$2,000.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

F. CivilTech Amendment #2 –Design Services

MOTION: by Dowell second by Gifford to approve amendment #2 to the Preliminary Engineering Services Agreement for Motor Fuel Tax Funds for the Quentin Road and Lake Cook Road Roadway Improvements, which increases design fee by \$27,511 (new total is \$480,836). Funds to come from SSA funds.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

G. Charlie Brown Park Lighting

Poles to be delivered in December. Previously approved \$560 for ComEd to set transformer. ComEd has notified the Village that a new pole will be required for the transformer at an additional cost of \$1500 (total of \$2000).

MOTION: by Gifford second by Dowell to approve an additional expenditure of \$1500 for pole and transformer for Charlie Brown Park Lighting.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

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12. REPORTS

A. Attorney Hargadon

i. Snowplow Contract

MOTION: by Dowell second by Kizior to accept the contract for snowplow services by VisionScape for the 2002-2003 season.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

Trustee Kizior and Engineer Gordon to pursue including salt guidelines and Vehe Farm.

ii. Ordinance 02-23: Sewer Per Acre Operations Charge

Annual ordinance which provides amount per acre user must pay for sewer service to cover Village's cost.

MOTION: by Dowell second by Gifford to accept Ordinance 02-23 setting the sewer per acre operations charge at \$69.33 per acre.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

iii. Ordinance 02-24: Prohibiting Thru Traffic Through Rue Vallee Subdivision

Trustee Kizior informed the Board of a meeting with Dusty Powell of Lake County Transportation regarding signalization at Rue Royale and Field Parkway. Mr. Powell indicated reasons for signalization: pedestrian traffic, litigation issues, implication of prioritization of automobile traffic with arrows.

Even though Lake County issues signage, Kildeer Police can issue tickets to enforce. Enforceability easier if an ordinance is created traceable to Illinois Statutory Law regarding signage and traffic flow, as not home rule.

Trustee Kizior recommends baseline study of traffic, as well as study to be done after improvements to understand traffic flow. Recommends configuration remain as planned.

Trustee Plautz questioned whether Rue Vallee residents will desire access from Rue Royale to Field Parkway in the future.

MOTION: by Dowell second by Gifford to approve Ordinance 02-24: Prohibiting Cut Thru Traffic Through Rue Vallee Subdivision.

Upon voice vote:

YES: (5)

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

Resident Pat Ekstrom indicated the need to stop cut through traffic from Lake Cook to avoid Quentin-Lake Cook intersection. Ms. Ekstrom requests amending ordinance.

Resident Mary Lahr suggested that Village utilize good will with IDOT to obtain signage on Lake Cook Road. President Pro Tem indicated that Rue Vallee homeowners might send letter to the Village requesting signage that could be passed on to IDOT. Mrs. Lahr stated that the Village would have a letter November 19th.

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iv. Teska Agreement

Sets new hourly rates for Village Planners' services; no other material changes.

MOTION: by Dowell second by Gifford to accept agreement between the Village of Deer Park and Teska Associates as presented 11/18/02.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

v. 6th Amendment to the Construction Management Agreement

Adopts Civiltech Engineering for Quentin and Lake Cook improvements and pays new (approved tonight) fees.

MOTION: by Gifford second by Kizior to accept the 6th Amendment to the Construction Management Agreement.

Upon voice vote:

YES: (5)

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

B. Administrator Diesen-Dahl

i) Illinois Municipal League Dues

MOTION: by Gifford second by Dowell to pay dues for Illinois Municipal League in the amount of \$5,143 for 2003.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

- ii. Information distributed—email from Jon Hitcho, CUSD 95, Groot Refuse information, Press Release from Deer Park Town Center, updated Village Roster.

C. Clerk Smith

Newsletter is at the printer; went on the web site the day delivered to the printer. Should be available for pick up 11/19/02 for delivery in-home by 11/21 or 11/22.

D. Trustee Dowell--Finance

- i) Vehe Farm Foundation Agreement—Village approved last month. VFF Board approved subject to coverage with Directors' and Officers' Insurance. Not yet signed.

- ii) Vehe Farm Foundation Interim Budget—distributed and discussed.

MOTION: by Gifford second by Kizior to approve the interim budget submitted by the Vehe Farm Foundation.

Upon voice vote:

YES: (4)

NO: (0)

RECUSED: (2) Dowell, Werch

ABSENT: (1) Karl

Motion Carried 4/0/2

E. Trustee Kizior—Roads and Public Utilities

- i) Office to copy Trustees on road study completed.

- ii) Recommend \$2500 for baseline study of traffic flow through Rue Royale prior to construction of Quentin Road improvements from Lake Cook to north of Field Parkway.

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Resident Mary Lahr informed the Board that a study was already done by the Kildeer Police for a period of 30 days on the east side of Rue Touraine and on the west side of Rue Touraine. Kildeer Police recommended study be done due to concerns by the police regarding cut through traffic. Appreciates comments regarding enforcement; however, enforcement may be a problem due to lack of manpower. Kildeer recommended three additional officers, Board approved only one. Mrs. Lahr noted that there is now a Kildeer Police officer living in Rue Royale, and expressed concern if his children are hit by a car. Report is available in the Village Hall—Mrs. Lahr received a copy from the Village Office.

F. Trustee Plautz—Health and Sanitation

- i) Attended SWALCO meeting; discussion regarding beverage container deposit legislation (SWALCO opposes). There is a transfer station planned for north on Rand Road.

G. Trustee Werch

MOTION: by Plautz second by Kizior to approve an expenditure of \$3300 for Deer Park Appreciation Dinner.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

13. TREASURERS INFORMATION

MOTION: by Dowell second by Gifford to approve the Treasurers Information dated 10/31/02. Upon voice vote:

YES: (5)

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

14. CASH DISBURSEMENTS

MOTION: by Dowell second by Gifford to approve an expenditure of \$289 each for Clerk and Administrator to attend conference on FOIA and Open Meetings Act in January in Rosemont.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

MOTION: by Dowell second by Kizior to approve the Cash Disbursements for the period 10/22/02 through 11/18/02 in the amount of \$1,292,666.35.

Upon roll call:

YES: (5) Dowell, Gifford, Hegarty, Kizior, Plautz

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

Trustee Dowell noted Cash Disbursements were unusually high due to payments to Lake County.

15. PUBLIC COMMENTS

Resident Mary Lahr noted that Chapter 52 of the Village Code allows use of existing wells within the Triangle; requests Board direct Attorney to redo ordinance so that any wells in the Triangle must be capped or at a depth of 1,000 feet, whether they existed before or after August 1999. Mrs. Lahr indicated that she was speaking for 10 of the 11 people who had wells go dry last year; has not spoken to the 11th. There are still problems with well sand and pumps.

16. ADJOURNMENT

MOTION: by Dowell second by Gifford to adjourn the Regular Meeting of the Board of Trustees. Upon voice vote:

YES: (5)

NO: (0)

ABSENT: (1) Karl

Motion Carried 5/0

The Regular Meeting of the Board of Trustees was adjourned at 11:45 p.m.

Henry Werch, President Pro Tem

Sandra R. Smith, Village Clerk