

**Village of Deer Park  
Regular Board Meeting Minutes  
December 16<sup>th</sup>, 2002**

1

**1. CALL TO ORDER**

The Regular meeting of the Board of Trustees of the Village of Deer Park was held on Monday, December 16<sup>th</sup>, 2002 at Charles Quentin Elementary School in the Village of Deer Park, Lake County, Illinois.

President Karl called the meeting to order at 8:07 PM. Upon roll call the following were present: Trustees Dowell, Gifford, Hegarty, Kizior, Plautz and Werch. Other Village Officials present were Engineer Gordon, Planner Kon Savoy, Plan Commission Chairman Howard Thrun, Plan Commission Members David Heidtke and John Lahr, Zoning Board of Appeals Chairman Joel Rotter, Zoning Board of Appeals Member Jack Honomichl, Administrator Diesen-Dahl, Clerk Smith, Attorney Hargadon and Attorney Stacey Rubin Silver. President Karl declared a quorum.

Guests present were: Ray Elvey (Deer Park Town Center); Jim Kraner (113 Lois Lane); Jim Mozer (20212 Park Hill Drive); Fred Chamberlain (Dover Pond Homeowners Association); Mary T. Lahr (201 Rue Touraine); Ron Ezsak (Court La Grov); Bob Barrett (170 Chicago St., Cary); Warren McElwain (1642 Colonial Pikes. Inverness); Keith Lacy (215 S. Northwest Highway, Barrington); Steve Lenet (United Development); Stephen Jouzapaitis (United Land Development).

**2. AGENDA CHANGES AND ANNOUNCEMENTS**

Janet Agnoletti, BACOG, moved to accommodate other Village Board meeting visits.

**3. CONSENT AGENDA**

- A. Minutes from the Regular Board of Trustees Meeting held 1/18/02
- B. Minutes of the Plan Commission Meeting held 12/2/02
- C. Minutes of the Plan Commission Public Hearing held 12/2/02

MOTION: by Dowell second by Gifford to accept the Consent Agenda. Upon voice vote:

YES: (6)

NO: (0)

Motion Carried 6/0

**4. 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. Mr. Chamberlain appeared before the Board last month; Board requested breakout of expenses at that time; Board has received breakdown.

MOTION: by Dowell second by Werch to approve an expenditure of \$1328.50 to Dover Pond Homeowners' Association for cost-sharing for Village owned property maintained by the Association. Funds to come from the Park Funds. Upon roll call:

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

NO: (0)

Motion Carried 6/0

**5. UNITED LAND DEVELOPMENT—DEER PARK PLACE TOWNHOMES**

President Karl noted Consultants' reports enclosed in Board packets regarding development.

***Plan Commission Chairman Howard Thrun*** reported that the Plan Commission recommends, after thorough review, the proposal for Preliminary Approval.

***Commissioner Dave Heidke*** noted revised plans had been received from United Land Development. While most items were taken care of, the following questions remain: building setbacks and configurations don't work correctly on the lots (octagons and turrets). Setbacks must be kept; proposal may have to lose 1 unit in reworking.

***Planner Kon Savoy*** reported that the Plan Commission looked at alternative plans; this is the plan the Commission chose to move forward. Two issues: treatment of western edge of

site, and landscape issues—particularly the center cove area and naturalization of detention area.

**Engineer Gordon** indicated that thus far reviews have focused on public improvements for the development. Some items have been addressed; majority of the rest to be addressed at final engineering. Engineer Gordon noted the following items to be addressed:

- Lake County Stormwater Management Ordinance compliance
- Village of Deer Park and Metropolitan Water Reclamation District Requirement compliance
- Access approval and temporary construction easement approval
- Proximity of landscape island to right of way may be an issue
- Sanitary sewer lift station final specifications

**Steve Lenet, United Land Development,** reviewed the plan as revised from the 12/2/ 02 Plan Commission meeting. The site is 3.8 acres located south of Long Grove Road. Site has one access point along the west end of the property to accommodate future development. There is one major circular drive with a gazebo and landscaping. Guest parking is provided. Landscape along Long Grove Road was increased by Plan Commission request to provide year round screening. Naturalization mix has been added to the detention area. Large massing of daylilies and a large tree have also been added to the entrance.

Mr. Lenet noted that setbacks, as measured from the foundations, are correct; turrets do not reach to the ground. Any deviations to setbacks are within one foot, and can be corrected at final engineering. As turrets do not reach ground, should be considered as permitted encroachments.

Mr. Lenet reported that the proposal began with 29 units; it is now 24 units. Cannot economically drop additional unit; also, setbacks will not be affected to a great degree by dropping one unit.

**Board Comments/Questions:**

**Trustee Kizior:**

Brick driveways possible? Mr. Jozapaitis—budgeted for asphalt.  
Remove three parking spaces in center? Mr. Lenet—“land bank” for use if needed.  
Attorney Hargadon noted that Planner Savoy requested those be put in the plan.  
Requested clarification of location of walkouts.

**President Karl:**

Square footage? Mr. Jozapaitis—2200 to 2800 plus basements (approximately 1,000 additional).  
Price range? Mr. Jozapaitis--\$439,000 – 499,000.  
Number of spaces outside of driveways? Mr. Lenet—five. Board consensus that additional parking spaces not be eliminated.  
Have there been preliminary discussions with Lake County regarding access to Long Grove Road? Mr. Lacy—No objections regarding location of access per letter just received from Lake County.  
Accommodated water for irrigation of common areas—estimate of water usage? Mr. Lenet—up to the homeowner association how/where water will be obtained for landscape irrigation. Any water to be supplied would need to be addressed by the Board of Trustees; Palatine agreement precludes use for irrigation, would need deep aquifer well.  
Wetlands on the site? Engineer Gordon-no.  
President Karl—road to be public or private? Mr. Lenet—private until property to the west is developed, then would become public.

Detention dry or wet? Engineer Gordon—dry bottom. No way to make wet; “wet meadow” may be possible. Mr. Lenet noted specific mix being used for this purpose and highlighted additional areas of planting included.

Lighting? Mr. Lenet—photometric study provided; cutting down number of fixtures to reduce foot-candles.

***Trustee Werch:***

All drives capable of stacking 4 cars? Mr. Lenet—Yes, and covenants will restrict overnight parking or conversion of garages to living space.

Development is short of guest parking.

Location of bike paths? Mr. Lenet—Have agreed to install; at time of final engineering, will located with Village Officials (Village doesn't yet know where bike path needs to come out).

Anticipated property assessments for units? Mr. Jousapaitis—approximately \$175 -- \$225 per month. All exterior maintenance (including exterior landscaping maintenance) deeded to homeowners association.

Could concede on density, however, other issues remain. Board needs to set the direction desired in these areas for the Plan Commission to work out details. This development will set the precedent for multi-family in the Triangle area; should expect the highest standards. Developer should adhere to setbacks. Plan Commission should consider suggestions from the Village Planner on details which could make the difference in the quality of the development.

***Trustee Plautz:***

Parking of cars around center circle? Mr. Lenet—Yes, one car all the way around.

Why are Quentin and Long Grove Road setbacks different? Attorney Hargadon noted corner of buildings extend into setbacks, not whole buildings. Plan

Commission approved layout to allow cantilevering of buildings. Eastern setback is 25' due to required wetland buffer. Reduced setback on west side due to belief that property to the west will be developed with uses that are similar or complimentary to these uses, such that 5' will not be material. Additionally, felt that most people would not be able to identify 5' difference in setbacks, particularly from Long Grove Road.

***Trustee Dowell:***

Bike path not used for maintenance? Mr. Lacy—No separate access to be provided to Long Grove Road.

Disposition and number of wells? Mr. Lenet—one well; have agreed to have capped. Will “absolutely not use” the well.

***Trustee Hegarty:***

Fire Department access looks to be tight near building 3. Also, if guests park around center circle, may restrict access. Has Fire Department reviewed plans? Mr. Lenet noted radius is sufficient; has been reviewed by the Lake Zurich Fire Department.

Location of slab for lift station; trees need to be removed to accommodate? Engineer Gordon noted slab to be located in the northeast corner of the lot. Originally planned to be 6 x 12; now to be 3 x 7. Mr. Lenet noted correct number of trees to adhere to tree ordinance (85). Existing Spruce trees to be retained and replanted.

Comment made by Commissioner Heidtke regarding sidewalks and pitch corrected? Mr. Lacy noted that corrections have been made; keystone retaining walls will be used for affected sidewalks.

***Trustee Gifford:***

Water usage addressed in Covenants? Mr. Lenet—No—need to address. Mr. Lacy indicated that estimate of water requirement would be 8400 gallons per day. Mr. Lenet indicated that water could be trucked in at installation of landscaping. Attorney

Hargadon noted that derivation of water estimates and provisions for watering will need to be addressed at final approval.

Comments made regarding potential basement flooding at Plan Commission—corrected. Mr. Lacy—no problem. Engineer Gordon noted that high water detention pond has lowest opening 2' above highest water level of 100-year event. Engineered to handle 10-year events; greater rainfalls have safe overland route provided to detention in the northeast corner of the lot.

Lift station needed even without development? Yes, part of SSA.

Possible to share cost of landscaping across common road to the west? Attorney Hargadon suggested requirement for funding of landscape escrow.

Agreed with Trustee Werch regarding requirement for high quality details to make the difference in the development.

**Public Comments/Questions:**

**Resident Ron Ezsak** asked if the Board was satisfied that there would be no adverse impact on schools, and that the impact fee alone would satisfy the impact on the school. Mr. Ezsak noted lengthy discussions regarding landscaping tonight, but no mention of school impact. Trustee Werch noted that the developer and representative from CUSD 95 have both agreed that the development would not be child intensive. Trustee Kizior noted that CUSD 95 is redistricting to balance due to anticipated growth in the district. Jon Hitcho (CUSD 95) confirmed the redistricting process currently underway. Until homeowners move in, difficult to say for certain final numbers. Mr. Ezsak expressed the opinion that the lack of discussion regarding school impact tonight was irresponsible on the part of the Board. Mr. Ezsak questioned if the Village was relying on demographic studies due to ease. Mr. Ezsak indicated desire to review specific other townhomes in similar situations, rather than relying on demographics to estimate impact to schools. Mr. Ezsak expressed the belief that the development would be approved; the Village must be firm and clear as to what will happen to the schools. Trustee Hegarty thanked Mr. Ezsak for his concerns, noting that discussion with Janet Agnoletti, which had to be postponed, was to address some of these issues. Difficult to move forward without this information.

**Resident Mary Lahr** expressed the following issues:

1. Density. Many of the issues expressed with the development would be remedied with lower density plan. Density discussed at the Plan Commission. Planner Savoy noted that the project exceeds density desired by one unit. Plan Commission found, because of size and dedications and lift station donation, proposal justified one extra unit. Loss of that one unit would not allow the proposal to meet all of the setbacks. Mrs. Lahr questioned why a proposal which does not meet Village ordinances is being forwarded for Preliminary Approval. Attorney Hargadon indicated that the intent of the Planned Development is to allow flexibility.
2. Guest parking
3. Water. Agreed to cap; however, Village ordinance says development can use wells. Deep wells cost approximately \$65,000 to install. President Karl affirmed requirement for capping and abandonment of existing well, and noted that any additional well would have to come before the Board for approval—and the Board would be looking for a deep well. Water is absolutely an issue which will need to be defined prior to final approval by the Board.

**Resident Jim Mozer** voiced the following opinions for Board consideration:

1. Trying to “shoe horn” the development into a space it does not fit into.
2. Need to review benefits to residents. President Karl noted that the Comprehensive Plan process saw this area as transitional between traditional homes and commercial property.

**Zoning Board Chairman Joel Rotter** expressed two concerns:

1. Why allow exceptions? If guidelines are wrong, change them, otherwise expect developers to conform.
2. Plan calls for buffer zone; right of developer to use once Plan is established. Go for high quality and details, but do not allow exceptions.

MOTION: by Hegarty to return back to Plan Commission for unanswered questions such as those regarding water, setbacks, Fire District access, engineering issues, landscape issues. Motion failed for lack of second.

Trustee Werch noted that Board members agree with concerns voiced by Trustee Hegarty and the public comments; however, these may be handled as conditions of Preliminary Approval.

MOTION: by Werch second by Kizior to grant Preliminary Approval to the Plan as conceptually submitted. Approving in general the density, insofar as meets Village Ordinance requirements, aesthetics in general as represented by the elevations, and the traffic pattern. Invite the Petitioner to continue to work with the Plan Commission to work out the details on:

1. Issues regarding setbacks be addressed, and specific recommendations be made to the Board after consideration.
2. Landscaping and aesthetics of landscaping be addressed with the goal of achieving strong quality statement.
3. Public safety issues (access, maneuverability of emergency vehicles, etc.).
4. Water usage and irrigation of landscape areas.
5. Village Engineer, in cooperation with the Village Planner, be prepared to present how landscaping can be adequately served with the water allowance, as stipulated.
6. Final Engineering approved by Gewalt Hamilton.
7. Lake County Department of Transportation approval of curb cut access and designation.
8. Detention area to be partial wet detention or seasonal hold of water with prairie plantings.
9. Approval does not incorporate approval of Villages' current impact fees.
10. Subject to condition of Plan Commission memo and Commissioner Heidtke memo dated 12/9/02.

Upon roll call:

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

NO: (1) Hegarty

Motion Carried 5/1

**6. ORDINANCE 02-22: IMPACT FEE ORDINANCE**

Janet Agnoletti, BACOG, noted that North Barrington approved the BACOG Impact Fee Model earlier this evening.

Ms. Agnoletti addressed two issues discussed at the previous meeting:

1. Legality of fire and library district inclusion in impact fees. Basis for inclusion is a difference in legal opinion. Basis is derived from the Subdivision section of the Illinois Municipal Code which references "and other public grounds".
2. Time of collection of impact fees. Requirement of collection at subdivision and platting is not practical and reasonable; however, allows municipality flexibility in entering into agreement with developer to allow payment at time number of bedrooms is known in exchange for voluntary agreement to allow use of funds for purposes other than construction alone (soft costs).
3. Dispute resolution process in model discourages lawsuits and encourages dispute resolution.

**Village of Deer Park  
Regular Board Meeting Minutes  
December 16<sup>th</sup>, 2002**

6

Attorney Hargadon noted that Subdivision statutes have been narrowly construed by the Courts; these statutes are the basis for the collection of impact fees. Currently the Village collects park donations at time of plat (if in lieu of land); school impact fees are collected at time of building permit. Discussion followed concerning wishes of Board for time of collection of fees. Uniform ordinances across BACOG communities are desirable; however, Village needs to examine best interests of the Village of Deer Park. Attorney Hargadon challenged the statutory authority for entering into an agreement as described above for collection of fees and timing, and noted that Attorney Pugliese shares his legal view of lack of statutory authority to enforce library and fire district impact fees. Additionally, attorneys advise that non-home rule communities are strictly forbidden to enter into the types of agreements called for regarding time of collection and use of funds. An enforceable method of supporting items specifically not granted by Statute to the Village may be to incorporate into Ordinance form to backdoor enforceable agreements with Planned Developments and Special Use Ordinances to address impacts. Must clearly establish the nexus between the impact and the payment of the fee. Administrator Diesen-Dahl noted that payments to be made all at once place a significant burden on developers; in the past, the Village has had to accept payments towards fees. Attorney Hargadon recommends ordinance not be retroactive.

MOTION: by Dowell second by Gifford to accept Ordinance 02-22 subject to the inclusion of fire, library impact fees as proposed and subject to change in language to collection at time of platting, as opposed to building permit. Upon roll call:

YES: (3) Dowell, Gifford, Plautz

NO: (4) Hegarty, Kizior, Werch, Karl

Motion Failed 3/4

MOTION: BY Kizior second by Werch to accept Ordinance 02-22 subject to inclusion of fire and library impact fees as proposed and subject to change of language for collection at platting, as opposed to building permit. Village may choose to afford the developer the opportunity to defer payments to time of construction and payments may also be used for construction. Ordinance should include developer waiver. Upon roll call:

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

NO: (0)

ABSTAIN: (1) Gifford

Motion Carried 5/0/1

**7. ENGINEERS REPORT**

**A. Traffic Signal Maintenance**

Proposals for traffic signal maintenance and emergency repairs. Submitted to three contractors; two bids received.

MOTION: by Gifford second by Kizior to approve an expenditure of \$165 per month for one year for traffic signal maintenance per the memo from Engineer Gordon dated 12/16/02. Upon roll call:

YES: (6) Dowell, Gifford, Hegarty, Kizior, Plautz, Werch

NO: (0)

Motion Carried 6/0

**B. Groundwater Report**

Board received a summary of the groundwater report. STS Consultants indicate that there could be an impact if commercial wells continue to draw from current aquifer; recommends wells in the Triangle be lowered to avoid any future impact. Developers (Poag & McEwen, Motorola, Hamilton Partners) have agreed to modify existing wells such that water is drawn from deeper aquifer. Plan is to complete prior to next irrigation season.

Costs may be applied to SSA. Attorney Hargadon indicated that Bond Counsel agrees. Bids received by developers for work are approximately \$50,000 per well to reach 900 – 1300 foot depth, completion goal is July or August.

**Village of Deer Park  
Regular Board Meeting Minutes  
December 16<sup>th</sup>, 2002**

7

Board noted that future agreements must include deep wells as requirement of Planned Unit Development.

MOTION: by Gifford second by Hegarty to direct Attorneys to draft an ordinance requiring wells in the Triangle to be in the thousand-foot aquifer. Upon voice vote:

YES: (6)

NO: (0)

Motion Carried 6/0

Age of some wells in the Village may be cause for calcium carbonate build-up.

C. Robinson Fields

Engineer Gordon has met with developer, Engineer, and Attorney regarding outstanding issues. Waiting for "as constructed" site plans. Board requested Engineer Gordon contact homeowner involved in lawsuit with developer for update on Village progress.

**8. REPORTS**

A. Attorney Hargadon

- i. Ordinance 02-25: Amendment to Planned Development and Zoning Ordinances  
Public Hearing held before the Plan Commission 12/2/02. This ordinance codifies into the Planned Development Ordinance the Comprehensive Plan use for Single Family attached dwellings in the Triangle, as well as providing density requirements and restrictions.

Trustee Hegarty noted comments made earlier by residents regarding current ordinances and proposed development pending. This would set precedence for setbacks; need to account for in deliberations.

MOTION: by Hegarty to postpone discussion on Ordinance 02-25 for one month. Failed for lack of second.

MOTION: by Plautz second by Gifford to adopt Ordinance 02-25, Amendment to the Planned Development Ordinance and Zoning Ordinance. Upon roll call:

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

NO: (1) Hegarty

Motion Carried 5/1

- ii) Kildeer Boundary Agreement

Believe complete agreement has been reached; Rand Road is basic boundary line. Both Villages to cooperate in disconnections required; any future rezoning will be subject to "sphere of influence".

Attorney Hargadon answered questions regarding specific terms of agreement; Board consensus for conceptual approval of the agreement.

B. President Karl

- i) American Red Cross Participation Agreement

MOTION: Werch second by Gifford to approve the American Red Cross Participation Agreement. Upon voice vote:

YES: (6)

NO: (0)

Motion Carried 6/0

- ii) California Pizza Kitchen—meeting with Building Review Board for site next to Stoney River Steakhouse. Theater hardscape plans have been approved by the Building Review Board.

- iii) Route 12 Corridor Planning—approached by Lake Zurich to develop a Council of

**Village of Deer Park  
Regular Board Meeting Minutes  
December 16<sup>th</sup>, 2002**

8

Governments similar to BACOG. Would include Deer Park, Kildeer, Lake Zurich, North Barrington and Hawthorn Woods. Board consensus to pursue.

- iv) Compensation—to be addressed in Executive Session.

C. Administrator Diesen-Dahl

- i) Liquor licenses—expiring end of December. Renewals are underway; all have been approved by the Kildeer Police.

MOTION: by Werch second by Gifford to approve renewals for period of one year for existing liquor licenses in the Village of Deer Park. Upon roll call:

YES: (6) Dowell, Gifford, Hegarty, Kizior, Plautz, Werch

NO: (0) Motion Carried 6/0

- ii) Donation in Honor of Past Zoning Board Chair Herbert Matz

Family has requested donations be directed to the Arthritis Foundation.

MOTION: by Gifford second by Kizior to approve donation to the Arthritis Foundation in the amount of \$250 in memory of Herbert Matz. Upon roll call:

YES: (6) Dowell, Gifford, Hegarty, Kizior, Plautz, Werch

NO: (0) Motion Carried 6/0

- iii) Swingsets Violation (balloon)—resolved.

- iv) Office Holiday hours—memo on hours observed included in Board packets.

- v) Schedule of Annual Meetings—included in Board packets; have been supplied to Charles Quentin for meetings and to newspapers for publication.

D. Trustee Dowell—Finance

- i) Barrington Youth Baseball—discussed shared usage of fields. Considering dropping special fee for Deer Park residents. Looking forward to addition of Triangle Field; bleachers and scoreboards next step in development.

- ii) Vehe Farm Volunteers—need volunteers for work at the Farm on Saturdays from 12 – 2.

E. Trustee Hegarty—Parks and Recreation

- i) Traffic flow—requested Engineer Gordon examination; lights at Deer Park Boulevard on Lake Cook Road appear to be timed incorrectly.

- ii) Swingset Seats—Equipment in Michael D'Angelo (seats) being recalled. Will try to have lengthened at time of replacement.

F. Trustee Kizior—Roads and Public Utilities

- i) BACOG Legislative Committee addressing:  
a. support for extension of Route 53  
b. groundwater protection  
c. disconnection legislation  
d. technical support for planning.

G. Trustee Werch—Public Safety

Village of Palatine has established a TIF district between Lake Cook Road and Dundee Road along Rand Road with the intent to upgrade. Also annexed some land along Lake Cook Road, helping to further establish the border between Palatine and Lake Cook Road.

9. **PUBLIC COMMENTS**

***Resident John Lahr*** thanked the Board for the Appreciation Dinner.



**Village of Deer Park  
Regular Board Meeting Minutes  
December 16<sup>th</sup>, 2002**

9

**10. TREASURERS INFORMATION**

MOTION: by Dowell second by Gifford to approve the Treasurers Information dated 11/30/02. Upon voice vote:

YES: (6)

NO: (0)

Motion Carried 6/0

**11. CASH DISBURSEMENTS**

MOTION: by Gifford second by Dowell to approve the Cash Disbursements for the period 11/19/02 through 12/16/02 in the amount of \$284,887.10.

Upon roll call:

YES: (6) Dowell, Gifford, Hegarty, Kizior, Plautz, Werch

NO: (0)

Motion Carried 5/0

**12. TEMPORARY ADJOURNMENT**

MOTION: by Gifford second by Werch to temporarily adjourn the Regular Meeting of the Board of Trustees for an Executive Session to discuss compensation for Village Staff. Upon voice vote:

YES: (6)

NO: (0)

Motion Carried 6/0

The Regular Meeting of the Board of Trustees was temporarily adjourned at 12:15 p.m.

**13. REOPEN REGULAR MEETING**

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

YES: (6)

NO: (0)

Motion Carried 6/0

The Regular Meeting of the Board of Trustees was reopened at 12:32 a.m.

**14. ADJOURN REGULAR MEETING**

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

YES: (6)

NO: (0)

Motion Carried 6/0

The Regular Meeting of the Board of Trustees was adjourned at 12:32 a.m.

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Richard C. Karl, President

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Sandra R. Smith, Village Clerk