

**Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005**

p. 1 of 13

1. CALL TO ORDER

The Regular meeting of the Board of Trustees of the Village of Deer Park was held on Tuesday, February 22nd, 2005 at Charles Quentin Elementary, 21250 W. Shirley Road, Palatine, in the Village of Deer Park, Lake and Cook Counties, Illinois.

President Gifford called the meeting to order at 7:04 p.m. Board members and Guests recited the Pledge of Allegiance. Upon roll call the following were present: President Gifford, Trustees Dowell, Ekstrom, Kizior, Rotter, and Thrun. Trustee Plautz was absent. Other Village Officials present were Administrator Diesen-Dahl, Treasurer Stade, Clerk Smith, Engineer Gordon, and Attorney Hargadon.

Guests present were: John Distil (215 Rue Touraine); Jo Distel (215 Rue Touraine); Carrie Groeller (219 Rue Touraine); Robert Lococo (23905 Bedlington); Roger Hankin (20856 Swansway); Teri Bridge (23675 Hedgeworth Court); Jim Peterson (20230 Lea Road); Suzie Brindise (20676 Waddington Road); Becky Herrman (20726 Meadow Lane); Frank Fik (22534 Lake Cook Road); Caryn Tausend (20708 N. Deerpath Road); Robb Tausend (20708 N. Deerpath Road); Debbie Vaughan (22988 Thornhill Court); John Lahr (201 Rue Touraine); Mary Lahr (201 Rue Touraine); Martin A. Jackson (521 Court Touraine); Dennis Depcik (Omni Youth Services).

2. AGENDA CHANGES AND ANNOUNCEMENTS

None.

3. CONSENT AGENDA

A) Approval and Release of Minutes from the:

- i) Board of Trustees Regular Meeting held 12/20/04

After review by the Clerk and Administrator, no changes are recommended from the Minutes as presented at the January meeting.

- ii) Board of Trustees Regular Meeting held 1/18/05

B) Approval, Not Release, of Minutes from the:

- i) Executive Session of the Board of Trustees held 1/18/05

C) From the Engineer

- i) Data Sharing Agreement with Cook County
ii) Pond Outflow Structure Maintenance – Invoice to Environmental Aquatic Management in the amount of \$1,050.

MOTION: by Rotter second by Kizior to accept the Consent Agenda. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

4. APPOINTMENT TO PLAN COMMISSION—ERIC LORENZ

President Gifford reported he is appointing resident Eric Lorenz to the Plan Commission. Mr. Lorenz is a 7- year resident of Deer Park, an Executive Vice President and Chief Financial Officer of a local manufacturing company. Mr. Lorenz has children in the Barrington schools, and he is active in baseball and basketball programs in the Barrington area.

5. REQUEST FOR VARIANCE—23905 BEDLINGTON CIRCLE

Mr. Lococo noted he was present before the Board in May; request at that time did not match drawings submitted. Petitioner is seeking a variance to extend 15' forward; unclear on exact distances required for variation due to previous nonconforming nature of the structure.

Petitioner has received final acceptance from Lake County on the new aerator and septic system. Home will be 5 bedrooms. Septic has already been changed. Engineer Gordon has not seen final septic changes.

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 2 of 13

At the May meeting of the Board, Board ruled application would need to reappear before ZBA. Even though additional ZBA appearance is not a required step, as the Board has final approval, Board members directed petitioner to appear before ZBA due to changes in the application since ZBA approval.

Petitioner to appear before the ZBA on March 7th—petitioner must use original application, and should work with the Village Engineer to obtain Village septic approval prior to appearing at the ZBA meeting. Petitioner must also clarify exact variations required.

6. REQUEST FOR EXEMPTION—DISTEL

Residents John and Jo Distel, 215 Rue Touraine (for the past 27 years), appeared before the Board to request an exemption from prohibition of storage of their motor home on the property. Mr. Distel noted they stored a motor home prior to passage of the ordinance barring such storage. Ordinance was passed in 1995, and did not allow for grandfathering. Attorney Hargadon noted for the Board there is no relief in Statute under a grandfather provision.

Mr. Distel noted they live on the far north end of Rue Touraine; currently have a side drive built in the mid-80's that is landscaped. Had an RV stored from approximately 1980 to 1992; did not own one from 1992 until last year. Purchased a new RV last year. Mr. Distel stated no one can see the RV; no one is affected by the RV except for a neighbor who does not object to the RV. Mr. Distel further noted he went to great lengths to shield the RV from residents prior to passage of the ordinance. Trustee Ekstrom and neighbor Carrie Groeller reported they did not mind the RV in its current location. Mr. Distel noted problems with storing of RV when it is used as often and heavily as they use theirs.

Language of the ordinance was reviewed by Attorney Hargadon; previously, ordinances allowed screening, current ordinance requires storage in an enclosed building. President Gifford noted this provision was changed due to problems with screening.

Mr. Distels noted the trailers on the Dahm property, and questioned why those trailers are allowed in the Village.

Trustee Ekstrom questioned why the ordinance was passed, and spoke of personal history with a boat.

The Board debated the merits of changing the ordinance to allow RVs if screened from sight. Additionally, the Board discussed differences between camping trailers discussed last month, and equity issues. Board also noted extent to which the Distels have gone to maintain the property. Trustee Dowell suggested the Board review the ordinance for potential change next month.

Trustees noted the ordinance is not intended to stop the type of use the Distel's enjoy currently.

MOTION: by Ekstrom to allow exemption for the Distels to store their RV. Motion failed for lack of second.

Board requested review of ordinance at next month's meeting. Administrator to consult surrounding Villages to determine how other communities have handled, and report back to the Board.

7. RESIDENT CARYN TAUSEND

A. Deerpath Road

Resident Caryn Tausend stated her belief the police have not stepped up enforcement; indeed, Mrs. Tausend reported police going through the stop sign.

Mrs. Tausend submitted paperwork to the Board obtained from Lake County showing Deerpath Road as a local street, not a collector. If a local street, should have the same

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 3 of 13

management as a local street—1300 cars a day would be excessive. Requesting the Board view Deerpath as a local street. Volume and speed are excessive; need to take some of the actions included in the petition previously submitted to the Board. Mrs. Tausend reported an incident the previous week when unsafe conditions arose when a neighbor was trying to turn left into her driveway, and was not able to due to traffic. Mrs. Tausend noted paperwork presented was submitted to Administrator for inclusion in the Board packet; Administrator did not recall receiving paperwork. Mrs. Tausend noted the information came from the Unified Development Ordinance on the Lake County web site. Mrs. Tausend requested the Board take into consideration the requests made in the petition originally.

Trustee Dowell noted he was unprepared to respond, as the Board was not copied on materials. Need to talk to police chief for specifics on monitoring of the road. Practical response from residents is not enough monitoring.

Mrs. Tausend expressed disappointment in the fact that this issue was going to be delayed another month, noting the length of time the Board has been discussing this issue with no resolution or impact on the problems.

President Gifford noted the Kildeer police report shows from 1/1 to 1/3 there were 21 STEP patrols on Deerpath Road. Can review times to make certain STEP patrols are occurring at critical times. President Gifford to contact Police for coordination.

Mrs. Tausend requesting Village to petition County for no turn signs as requested in the petition. President Gifford stated the Village will petition the County for relief; Mrs. Tausend suggested restrictions would not be necessary all day.

Trustee Ekstrom gave Mrs. Tausend plans for new signage on Deerpath Road.

Trustee Kizior and Rotter noted signs will only move traffic. Volume will be carried; question is where. Mrs. Tausend noted volume should be routed to appropriate roads, not local roads.

Board discussed alternatives to calm traffic. President Gifford directed Engineer Gordon to look into alternatives available, and costs associated.

B. Kelly Lake:

Mrs. Tausend noted reimbursement request for Kelly Lake expenses was discussed at a previous meeting and denied due to the fact that Kelly Lake is a privately owned lake. Residents are asking the Board to reconsider, due to the 3 Village storm drains which carry water to the lake. Mrs. Tausend presented a letter from EAM showing inflow affecting requirement for treatment. Mrs. Tausend noted the Board reimburses for landscaping in other areas of the Village. Residents and EAM have stated the lake is getting harder to maintain. Have additional bid for work which is comparable to EAM.

Trustee Kizior noted last year he was instructed to try to leverage buying power for Village residents or to negotiate lower prices with EAM. Trustee Kizior noted Kevin Dahm had indicated he would be willing to consider lower rates for residents due to volumes, and suggested Mrs. Tausend request Kevin review pricing.

Trustee Kizior indicated he does not believe the Village should address this issue, as it is not public property. Mrs. Tausend noted the Village is causing elevated nutrient levels, and should therefore share in the responsibility for the lake. Further, Mrs. Tausend noted monies approved for flowers and landscaping elsewhere. Trustee Dowell noted these are for Village-owned lands; lakes derive water from runoff throughout the Village. Board members noted public funds should be used for public benefit; Kelly Lake is not a public access lake. Mrs. Tausend noted folks visit and fish the lake all the time, though land adjoining the lake is private. Engineer Gordon to review drainage for inventory of which subdivisions are draining into Kelly Lake.

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 4 of 13

Board noted the Village is interconnected through waterways. Drainage resulting from homeowners' land are not responsibility of the Village. Riparian rights under the law affect the situation and decisions to be made.

Board to review and discuss next month, based upon Engineer's information.

8. REQUEST FOR DONATION—OMNI YOUTH SERVICES

Dennis Depcik, Omni Youth Services, thanked the Village for past contributions. Services have been provided by this nonprofit community-based organization since 1972; providing service to Ela Township since 1982. Omni provides: 24 hour crisis calls and catastrophic response to schools (i.e., death of teachers or students), comprehensive counseling services, suicide assessments to schools who identify students at risk, runaway services to reunite families, substance prevention, abuse programming, and juvenile justice programs. Peer jury services have been provided through the Lake Zurich police department for the last several years. A peer jury consists of a jury of youth trained by Omni who hear the offense and pass sentence on the offender. Both Kildeer and Hawthorn Woods now have their own peer juries. Last year 37 youth passed through the peer jury system.

The Village has donated \$1000 each of the last 3 years.

MOTION: by Dowell second by Ekstrom to approve a donation to Omni Youth Services in the amount of \$1000. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

9. VEHE FARM FOUNDATION REPORT

A. Update on Phase II Construction Project

Jim Peterson had hoped and expected to have contractor attend meeting. Unfortunately, contractor's son is being shipped to Iraq tomorrow; will attend next month.

Contractor now agrees Barn will not be ready for April meeting. Further construction status is in report which was included in agenda package.

B. Payment of bills:

- i) Pay Request #8 for Vehe Farm Construction in the amount of \$35,532.00 payable to R & W Clark per the memo from Jim Peterson dated 2/14/05.

MOTION: by Thrun second by Kizior to approve Pay Request #8 for Vehe Farm Construction in the amount of \$35,532.00 payable to R&W Clark per the memo from Jim Peterson dated 2/14/05. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

- ii) Pay Request for architectural and engineering services in the amount of \$1,292.40 payable to HZPS per the invoice from HZPS dated 2/10/05.

MOTION: by Thrun second by Kizior to approve the Pay Request for architectural and engineering services in the amount of \$1,292.40 payable to HZPS per the invoice from HZPS dated 2/10/05.

Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 5 of 13

Mr. Peterson noted penalty for late completion is \$5000 per month. Trustee Ekstrom asked for budget breakdown to actual. Included in pay request; not distributed to Trustees—distribute next month.

10. ENGINEERS REPORT

A. Swansway Wetland Monitoring and Maintenance Proposal

As a condition of the Army Corps permit, the Village must monitor the establishment of the wetland. Engineer Gordon has obtained a proposal from Applied Ecological Services in the amount of \$21,540; memo submitted breaks cost out by year for budgetary reasons. There is approximately \$48,000 remaining in the budget, with approximately \$25,000 being held in retainage to cover remaining punch list items for the construction portion of this project.

Payments would be scheduled on an annual basis under the contract.

The Village does not need to obtain competing quotes, unless it desires to do so, as AES has acted as the Village Consultant previously, and this work is determined by qualification, not low bid. Additionally, AES did some of the front-end work on the project. Engineer Gordon confirmed specifications as bid are to scope of the project; no more or less than required by the Army Corps; however, Engineer Gordon noted the Village may need to do some additional work based on the results of the monitoring. The existing contract with Martam Construction includes one more growing season, then the Village will need to budget a small amount for a contractor to handle as needed.

Engineer Gordon requesting acceptance of the contract and approval to pay the 2005 fee in the current fiscal year.

MOTION: by Ekstrom second by Kizior to accept the proposal for maintenance for 2005 – 2008, with the understanding that the 2005 fee is to be paid out of the remaining money for the current fiscal year (2004 – 2005 fiscal year). Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

B. Bolder Contractors—Emergency Flooding Control

Invoice is for culvert maintenance previously approved in November. Board recommendation was to replace culvert with roots in joints. Received quote that was twice the original estimate; also, residents were concerned about construction. Meanwhile, the weather flooded Swansway between Corners and Covington. Bolder came out that morning to complete work to relieve flooding.

MOTION: by Rotter second by Thrun to approve payment to Bolder Contractors for work done to alleviate flooding at Corners and Covington in the amount of \$1,590.00. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

11. ATTORNEY'S REPORT

A. Update on Zoning Violations

- i) Richter—Mansard Plaza on Rand Road cited for 3rd time by Lake County Health Department for allowing raw sewage to leech onto County property. County will not be able to deal with the issue for 6 weeks; due to Public Safety issue, President Gifford requested the attorney speak with Mr. Richter to indicate the seriousness of the problem. Spoke with Mr. Richter, told residents they should not occupy the building. Mr. Richter has pumped the system. Due to concern of Lake County Health, Village Engineer and tenants (who confirmed this has been an ongoing problem), Mr. Richter agreed to have tank pumped every 3 days for

next 30 days and to have a certified septic engineer assess failure and steps required to make the system functional. Septic report generated is to be provided to the Village.

- ii) Palvig—camper has been removed. Open jeep under a tarp which has been objected to, has not been moved recently, but has been sold. Will be out of there in approximately 15 - 20 days. Trailer in driveway has been removed. Due to action on first two items, gave additional time to remedy.
- iii) Fik—cars parked in driveway and yard. 2 cars have been removed. Attorney Hargadon reported in discussions with Mr. Fik, he gave an extension to remove final 2 cars until tonight. Has agreed to remove by Friday.

Neighbor, Mrs. Engel, is trying to sell—had two people ready to make offer, offers withdrawn due to the cars. Mrs. Engel stated no cars have been moved.

Resident Frank Fik, 22354 Lake Cook Road (violator) stated the cars are operable, but need work. Does not own one of the cars; owner does not want to fix. Mr. Fik does not have a key; owner owes Mr. Fik for repairs already made to the car. If need be, will move every day to satisfy the Village. Mr. Fik stated neighbor simply does not like the cars. Offered to cover the cars, and previously requested a variance to build onto the home to enclose the cars, which was not approved.

Mr. Fik reviewed history of car not owned by Fiks. Owner claims he lost the title; says he has applied for a new title. If title is obtained, will repair and keep. Storing another individual's car on the property is also a violation of the ordinance. Regardless of title issue, the car must be removed immediately.

Other vehicle in question does not have four tires, and has not had four tires on it in six months. Board must decide if that constitutes an inoperable vehicle.

Ordinance prohibits inoperable vehicles being stored on driveway to allow homeowners who want to store their vehicles on their driveway.

Trustee Dowell noted current condition of car constitutes inoperable condition, as it does not have all four tires. Spirit of ordinance is that vehicles must meet state requirements for use on the road. Fender is not off, just smashed in. Car does not need to be moved; if it can be operated, it is allowed.

Red car must be removed. Mr. Fik requested two weeks due to title issue. Board consensus (as this has gone on for approximately two years)—had enough time to resolve. Date of first notice was September 10th. Administrator and Mr. Fik disputed whether or not there was a copy of the ordinance enclosed in the original notice. Board consensus red car must be removed by March 4th (one week from this coming Friday). Tire must be on gold car tomorrow by midnight.

Mrs. Engel asked how residents could be allowed to collect cars on their driveway. Attorney Hargadon noted ordinance does not address the number of cars allowed, as long as they are operable. Mrs. Engel noted inequity in issue.

12. REPORTS FROM THE PRESIDENT, TRUSTEES, AND ADMINISTRATOR

A. President Gifford

- i) Budget Items for 2005 - 2006
Removed from agenda.

ii) Lake County Road Improvement Referendum

Trustee Dowell stated he has difficulty with the term for the proposed increase. Historically, the Board has not endorsed referenda. Last Fire District issue was first time Board had ever done so.

Engineer Gordon noted County is conducting a Phase 1 study on the intersection of Quentin Road and Rand Road, required for approval of Phase 2 (Final Design). County is looking for money for allocation towards construction. Trustee Ekstrom noted the only solution to the traffic on Quentin Road is to widen and improve Quentin further north, as this is included in the projects to be addressed and would benefit Deer Park residents, Trustee Ekstrom supports.

MOTION: by Ekstrom second by Kizior to resolve to endorse the Lake County Road Improvement Referendum. Upon Voice vote:

YES: (3) Ekstrom, Kizior, Rotter

NO: (1) Dowell

ABSTAIN: (1) Thrun

ABSENT: (1) Plautz

Motion Carried 3/1/1

iii) LZRFPD Referenda

Board previously endorsed the referenda, and wishes to support again. Endorsement to be included in the newsletter.

Administrator Diesen-Dahl noted there is a new President of the Fire District, Jeff Sedlack, who has submitted information to be included in the newsletter.

MOTION: by Dowell second by Thrun to endorse the LZRFPD referenda. Upon voice vote:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

B. Trustee Kizior—Parks & Recreation

i) BACOG Legislative Platform

Trustee Rotter noted there were changes suggested by the Affordable Housing committee in BACOG. Trustee Kizior noted the Legislative committee took input; still recommending BACOG include Affordable Housing on the platform and adoption of acts by each Village.

Trustee Rotter noted portion of platform addresses pursuit of impact fees for commercial areas, which would address the issues discussed previously by the Board.

MOTION: by Kizior second by Dowell to accept the Draft 2005 Legislative Platform dated 1/5/05 for BACOG. Upon voice vote:

YES: (5)

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

ii) Parks Planning 2005 – 2006: Aquatic Management Expenses & Lawn Care Expenses.

Ponds to be included for treatment are Squires, Peterson, and Swansway detention. EAM pricing has gone up slightly. Requesting to sign contract for next fiscal year.

Recommending Trugreen Chemlawn for weed control/fertilizing within the Village. Prices consistent from last year to this year.

**Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005**

p. 8 of 13

Until Board has budget discussions, Trustee Ekstrom not comfortable with signing contract for next budget year. Trustee Kizior stated expenditures are set by precedent, and are a nominal expense not impacting budget. Would like to sign contingent upon later Board approval. Board consensus cannot sign a contract until after April budget discussion.

Trustee Rotter noted quote states all ponds are receiving a discount.

Trustee Kizior reported there will be Bid openings for mowing and maintenance of Village properties.

iii) Homeowner Association Expenses Reimbursement

a. Deer Lake Homeowners Association

Summary included in packet; detail handout was provided to Trustee Kizior. Recommendation to accept request for reimbursement for \$1190.00.

Board discussed if mowing every week was excessive. Past position was if residents take the time and energy to provide for maintenance, would reimburse costs. Current request meets the spirit of the reimbursement program; may need to limit mowings covered on a going-forward basis.

MOTION: by Kizior second by Dowell to approve the reimbursement of funds in the amount of \$1190.00 to Deer Lake Meadow Homeowner Association as reimbursement for the Village share of expenses. Contingent upon review of documentation by Treasurer. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

Trustee Kizior to review potential limit on mowings Village will cover.

b. Squires Homeowners

Recommend approval, as request follows guidelines.

MOTION: by Kizior second by Dowell to approve payment to the Squires Homeowners Association for pond algae control, landscaping, and maintenance in the amount of \$2786.50. Subject to review of receipts by the Treasurer. Upon Roll Call:

YES: (4) Dowell, Ekstrom, Kizior, Rotter

NO: (0)

RECUSED (1) Thrun

ABSENT: (1) Plautz

Motion Carried 4/0

iv) Parks Usage

Distributed tentative schedule derived after meetings with sports officials.

Soccer: moving general use of Charlie Brown from Thursday to Wednesday.

Will also be slight change in Saturday times for Vehe Farm. Finishing baseball in the next few weeks. Trustee Kizior has all of the requests, when schedule is finished, will pass on to the Administrator for the Village Office.

Discussion regarding extension of resident rates to Deer Park residents in exchange for use of parks. Trustee Kizior to reconfirm residents are being extended resident rates where resident rates are offered.

Trustee Kizior to notify associations regarding parking restrictions along bike lanes.

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 9 of 13

Still working on removal of dirt from Praedium site for new baseball and soccer fields. Trustee Kizior noted may need to move some of the dirt down Quentin Road.

C. Trustee Rotter—Planning & Zoning

i) BACOG meeting about Affordable Housing

Attended affordable housing meeting at BACOG. Will be developing plan for submission to Board next month. Trustee Rotter to work offline with Attorney Hargadon on possible approaches.

D. Trustee Ekstrom—Roads & Public Utilities

i) Designation of Lord Bissell & Brook: Questioned when the Village designated LBB to represent the Village in litigation matters. Trustee Ekstrom referred to the Illinois Rules of Professional Conduct, Section 11.13.E that LBB may not represent both the Trustees and/or the Board unless this Board authorizes the firm to do so. Additionally, in Rule 3.7.A states if there is any reason why LBB may be called to answer questions in the litigation, they may not represent these individuals at all. President Gifford requested Board consensus on whether litigation issues were appropriate to public session. Trustees Thrun, Dowell, Kizior, and Rotter agreed discussion should occur in executive session, at this time, in conjunction with other litigation discussions. Trustee Ekstrom noted strategy was appropriate for executive session, but approval was appropriate for open session.

Trustee Ekstrom questioned if there was any indication of potential fees for litigation for budget purposes; Trustee Dowell noted further information from the executive session was needed to formulate a response to the question. President Gifford again requested consensus of the Board regarding discussion in open session. Board consensus to hold until after executive session discussions.

ii) Road and Drainage Budget Items: Put together first pass at road and drainage budget items. One change—Middlefork improvement—Engineer Gordon was able to come up with alternatives that would be less costly. Estimate is \$60,000 not \$180,000. Ferndale may change; looking into 2 or 3 year phased approach, so number should come down. Need to do topographic study of area as soon as possible so Engineer can design.

MOTION: by Ekstrom second by Kizior to approve an expenditure up to \$10,000 for a topographical study of the Ferndale improvement area for engineering designs. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

Trustee Ekstrom noted \$491,000 in budget is what was deferred out of 2004 plus 2005 – 2006 scheduled. Swansway wetland monitoring drops to \$5000 from \$12,000 due to earlier action of the Board tonight.

Total budget is \$1.8 million. Board discussed items impacting and process for prioritization of projects. Trustee Ekstrom noted the \$30,000 shown in Miscellaneous Drainage Improvement is the amount the Board approved for drainage concerns to be addressed prior to the road program moving forward, and is based on payments made this year. Trustee Kizior felt the presentation without prioritization of projects was unreasonable. Trustee Ekstrom noted Board deferred expenditures due to Vehe Farm last year with the understanding items would be made up this year. Trustee Ekstrom requested Board direction for prioritization of items. Board requested prioritization by Trustee Ekstrom as Trustee in charge of Roads and Public Utilities. Trustee Ekstrom noted proposed

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 10 of 13

figures are based on prior discussions of the Board. Trustees Rotter and Kizior suggested prioritization of: items that must be done, items should/would like to do, and items to be completed as allowed by the budget. Trustee Ekstrom noted that all items, with the exception of Bramblewood pond drainage, Ferndale, and the road program are items that have to be done. Trustee Dowell also asked for alternatives for three non-imperative items for approaching issues, such as distributing costs over several years, etc. Trustee Ekstrom requested a target; Trustee Dowell noted there is not really a target—the Board needs to be aware of costs upcoming, and should see the costs associated with each item needed to be completed at some point in the future. Trustee Dowell noted each large project is a series of smaller projects that can be broken down and prioritized for completion. Trustee Rotter stated that Trustee Ekstrom, as the Trustee with the most knowledge regarding these issues, should prioritize projects. As a starting point, Trustee Dowell suggested looking at the current year for initial target.

First cut discussion will hopefully be in March. Trustee Ekstrom to work offline with Trustee Dowell.

- iii) Potential conflict—Village of Kildeer President: Questioned potential conflict of interest with Mr. Stefaniak as Kildeer Village President negotiating the Police Contract, given he is the attorney of record in the matter of litigation pending with the Village.

Trustee Thrun noted the Kildeer representative in the negotiations is not Mr. Stefaniak; negotiations are with Village Administrator Laurie Schreiber.

- iv) Letters to residents affected by road resurfacing: Trustee Ekstrom confirmed Administrator will send letters to residents whose streets will be resurfaced (when the roads program is set) regarding mailbox heights.

E. Trustee Thrun—Public Safety

Police contract is being negotiated. Cost will increase; exact numbers will be provided next month. Village will have two full-time police officers in the Village.

F. Trustee Dowell—Finance

- i) Reminder to submit budgets for various committees as soon as possible for budget discussions next month.
- ii) Engagement letters from auditors will be discussed next month.

G. Administrator Diesen-Dahl

- i) Contribution—DARE Program

MOTION: by Ekstrom second by Thrun to approve \$3,181.95 for DARE education in Barrington's District 220. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

- ii) Update on Garbage Contract

Proposal from Groot included in package; letter from SWALCO also included regarding analysis of proposal.

Groot will furnish recycling containers at \$1.25 per month, if the Village elects. Yard waste program has changed significantly from prior years. Board asking for unlimited yard waste in \$75 program, and clarify Groot will continue to accept the regular recycling bins in place of the 65-gallon cart.

Administrator Diesen-Dahl and President Gifford to work to resolve issues for final proposal, as Board consensus was that the Board was happy with service

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 11 of 13

provided by Groot. Also, Clerk Smith noted Andy Quigley of SWALCO is not associated with Groot, but by virtue of position with SWALCO would be in a position of knowledge to comment on the contract.

H. Treasurer Stade

i) GASB 34 Update

Update included in packet. Must be filed on April 2005 return; on target. Trustee Rotter had questions for Treasurer Stade regarding auditor Management Letter; will pursue offline.

13. TREASURERS INFORMATION

MOTION: by Dowell second by Kizior to approve the Investments Held report dated 1/31/2005 in the amount of \$2,306,098.19. Upon voice vote:

YES: (5)

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

14. CASH DISBURSEMENTS

Trustee Ekstrom voiced a concern regarding the item "general and confidential not for dissemination" and suggested an amendment to alter the Cash Disbursements. Board declined.

MOTION: by Dowell second by Thrun to approve the Cash Disbursements for the period 1/19/05 – 2/22/05 in the amount of \$213,144.25. Upon Roll call:

YES: (4) Dowell, Kizior, Rotter, Thrun

NO: (1) Ekstrom

ABSENT: (1) Plautz

Motion Carried 4/1

15. PUBLIC COMMENTS

Resident Mary Lahr questioned why the bid for AES in the amount of \$21,000 was not taken out for bid. The services are for maintenance over a 4- year period of time, each year totaling between \$4,000 and \$7,000 per year. Also, regular village consultants do not require bid process.

Mrs. Lahr noted Trustee Kizior spoke of hauling dirt from Praedium "down Quentin Road". Previously the Board directed construction traffic is not to be on Quentin Road. All of Phase 2 construction has come out on Quentin from Field Parkway; suggestion was made dirt be hauled in the same manner to avoid Quentin Road. Trustee Kizior to examine routes; ordinance states traffic cannot go on Quentin. Trustee Ekstrom reminded that no agreements can be made for truck traffic on Quentin Road as the ordinance now stands. Trustee Kizior noted Engineer Gordon has been requested to provide costs to roads for hauling dirt so decision can be made on cost basis. Mrs. Lahr noted trucks have been coming down west on Field Parkway since the beginning of Phase 2 construction. Additionally, Mrs. Lahr commended Trustee Kizior for negotiating for fill dirt, instead of buying.

Mrs. Lahr asked why the Board doesn't want to discuss hiring of attorney for litigation in open meetings when same Board has discussed other employees in open meetings. Further, why were Trustees not copied or notified when the Village was sued, and why was information not included in agenda packages. President Gifford polled Board members to make certain that all Trustees were aware of the issue.

Mrs. Lahr also asked, given that the Village is entering into litigation, if the Village has received any changes in the rate structure for LBB. Attorney Hargadon stated in January 2003 the Village approved a set of fees; rates have not changed since then. Mrs. Lahr asked when an agreement would be signed. Board does not know; have not had discussion. Mrs. Lahr suggested a rate freeze, in writing, for the duration of the suit. Trustee Ekstrom concurred.

Mrs. Lahr asked what litigation will be discussed in Executive Session. Will be discussing Shepherd vs. Deer Park as well as the current appeal before the first District.

Resident John Lahr expressed the opinion that Attorney Hargadon has orchestrated the mess village is now in. Based on past performance, he has no confidence that either this attorney or his firm has either the capability or the will of getting the Village out of this mess. If any of the Village previous attorneys had been in place, Mr. Lahr is confident in asserting this mess would never have occurred. This attorney or his firm should not represent the Village for the following reasons: the attorney is negotiating with the Village of Kildeer, the attorney has the potential to be called as a witness in this case, cannot represent the individuals and the Village without creating a conflict of interest per the Rules of Professional Conduct. Costs of this litigation could easily approach \$1 million considering court costs and fees for the Church and the Frosians as agreed to in the annexation agreements. Mr. Lahr stated the Trustees have been complicit in incurring these huge costs. Easily the most egregious financial matter the Village has ever faced in its history.

Resident Mary Lahr expressed her disappointed that a man that is supposed to be as professional as Attorney Hargadon should sit there and chuckle; believe that is reason for dismissal.

Resident Roger Hankin stated his heart goes out to Trustees named personally, as well as prior Trustees. Out of respect for them, difficult to discuss without their representation. As the Village goes into this, remember any advice being presented is from an individual who advised costs would be \$20,000, now up to \$280,000. Also advised tort immunity, yet the Village is now being sued. With respect to the money, asked President Gifford, at \$180,000, shortly after he took office, understanding is that the plaintiff in this matter agreed to meet to work out matter amicably. Mr. Hankin read a note from Mr. Shepherd. Questioned why the Village did you not meet and resolve when this could have saved the Village money and colleagues heartache. President Gifford stated there were discussions with Mr. Shepherd, during which both parties agreed there would be no further discussions.

16. TEMPORARY ADJOURNMENT FOR EXECUTIVE SESSION

MOTION: by Rotter second by Dowell to temporarily adjourn the Regular Meeting of the Board of Trustees for an Executive Session to discuss ongoing litigation, review Executive Session Minutes, and Employee Compensation, after a 5-minute break. Upon Roll Call:

YES: (5) Dowell, Ekstrom, Kizior, Rotter, Thrun

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

The Regular Meeting of the Board of Trustees was temporarily adjourned at 10:45 p.m.

17. REOPEN REGULAR MEETING

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

YES: (5)

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

The Regular Meeting of the Board of Trustees was reopened at 12:22 a.m.

18. ACTION ON EXECUTIVE SESSION ITEMS

Attorney Hargadon reviewed: In executive session the Board discussed the complaint Shepherd vs. Deer Park, et al. After significant discussion regarding appropriate Village response, the Village is ready to move forward on a plan of action.

Village of Deer Park
Regular Board Meeting Minutes
February 22, 2005

p. 13 of 13

MOTION: by Dowell second by Kizior whereby the Village agrees to defend and indemnify current Village Board members and the Village President using Village Attorney to mount a common defense. Upon Roll Call:

YES: (4) Dowell, Kizior, Rotter, Thrun

NO: (1) Ekstrom

ABSENT: (1) Plautz

Motion Carried 4/1

Resident Roger Hankin called a Point of Order during the Roll Call—believed only Trustees not named in the suit may vote; Village President Gifford ruled understanding of the rules was incorrect, and directed the Clerk to proceed.

MOTION: by Dowell second by Thrun whereby the Village agrees to fund attorneys for private defendants up to final disposition of the motion to dismiss in the trial court. Upon Roll Call:

YES: (4) Dowell, Kizior, Rotter, Thrun

NO: (1) Ekstrom

ABSENT: (1) Plautz

Motion Carried 4/1

Trustee Rotter expressed the concern that the Village President of Kildeer is the Attorney for Shepherd. Believe it is at least unethical for him to be the attorney and be a vendor to this Village. Do not believe he has informed his Board. Request negotiators of contract notify Kildeer; Trustee Thrun stated they have done so. Trustee Rotter stated he would like to see notification in an open meeting of the Kildeer Board. Believe Village may need to look at other potential vendors for police service. Trustee Thrun reminded Trustee Rotter that Mr. Stefaniak has not been involved in negotiations. Trustee Rotter noted he is giving recommendations on a day to day basis. Trustee Rotter requested a recusal, in writing, from Mr. Stefaniak. Trustee Ekstrom noted she brought this point up earlier in the meeting, yet the Board was unconcerned at that time. Trustee Kizior felt that the Trustees better understand the issues after the executive session, and now concur there is a potential conflict.

19. ADJOURNMENT

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

YES: (5)

NO: (0)

ABSENT: (1) Plautz

Motion Carried 5/0

The Regular Meeting of the Board of Trustees was adjourned at 12:30 a.m.

H. Scott Gifford, President

Sandra R. Smith, Village Clerk