

**Village Of Gilberts
87 Galligan Road
Gilberts, IL 60136
Village Board
Meeting Minutes
March 18, 2014**

APPROVED MINUTES

Call to Order/Pledge of Allegiance

President Zirk called the meeting to order at 7:00 p.m. He proceeded to lead those present in the Pledge of Allegiance.

Roll Call / Establish Quorum

Village Clerk Meadows called the roll. Roll call: Members present: Trustees Corbett, Mierisch, LeClercq, Zambetti, Farrell, Hacker and President Zirk. Others present: Administrator Keller, Assistant Administrator Beith, Chief Building Inspector Swedberg, Finance Director Blocker, Attorney Tappendorf, Bond Counsel Bilas and Village Clerk Meadows. For members of the audience please see the attached list.

Recognition

Public Works Snow Plowing Crew

Chief Building Inspector Swedberg recognized the snow plowing crew employees Jason Klaras, Paul Sheppard, Larry Schuring, and Josh Koukol for their exceptional efforts in keeping the Village roadways free from ice and snow during this extremely brutal winter season. Chief Building Inspector Swedberg noted that the snow plow crew had worked endless hours and were called out ten weekends in a row. In addition, they had worked three of the recent winter holidays. President Zirk noted that he had not received many calls expressing concerns about the condition of the Village's streets. He believes the Village's street conditions were in better condition than a majority of the surrounding communities' streets. Chief Building Inspector Swedberg along with the Board Members and those in attendance applauded the snow plowing crew and thanked them for their service.

Public Comment

Mr. Pace who resides at 721 Kerry Court addressed the Board. He inquired on what had transpired at the last Kane County Board meeting with respect to the Intra Soccer, LLC petition. President Zirk replied that politically the Village had reached out a number of times to the County expressing concerns with approval of the petition without the conditions outlined in the Village's proposed IGA. President Zirk noted that the County does have the authority to amend the zoning. However the consequence of their decision falls back onto the Village of Gilberts and its residents.

President Zirk reported that the item was pulled from the Kane County Agenda to allow for the Community Development Committee to vote on the IGA. Mr. Pace stated that approval of the IGA was unanimously voted down. He noted that no one from the Village was in attendance. Administrator Keller reported that he had attended the Community Development Committee meeting and had directly spoken with Mr. Pace.

Mr. Pace cited a selective excerpt from the Village Board Meeting Minutes dated January 15, 2013, in which the Board had a conversation with Mr. Schcolnik. Mr. Schcolnik had expressed concern with the financial sustainability of the soccer facility. The minutes reflected that the Board Members had recommended Mr. Schcolnik contact the YMCA to inquire if they were interested in utilizing the facility and offering additional programs to the Village residents. Mr. Pace said those statements reflected an accommodating attitude. President Zirk noted that the reality is the Village was not in favor of the rezoning and uses they were proposing. President Zirk recalled during the January 15th discussion Mr. Schcolnik expressed concerns with the operational sustainability of the facility. That is when the Board suggested an option to partner with the YMCA to provide additional programming within the Intra Soccer Facility in lieu of the types of uses Mr. Schcolnik was proposing. Mr. Schcolnik was not interested in partnering with the YMCA. He wanted to pursue the zoning amendment and procuring of a liquor license from the County.

Mr. Pace once again cited a selective excerpt from the Village Board Meeting Minutes dated January 15, 2013 in which Mr. Schcolnik discussed his desire to have Kane County consider their petition as soon as possible. Mr. Pace expressed concern that this was the first time Mr. Schcolnik had presented his proposed petition to the Board and there was no notice given to the residents with respect to the proposed petition. In Mr. Pace's opinion the Board's action does not appear to be taking into consideration the welfare of the residents. President Zirk noted that the Board Members have done everything in their power to persuade Kane County to place restrictions on the uses.

Mr. Pace asked the Board Members to consider signing his petition opposing the rezoning of the Intra Soccer Club. He hopes to have 600-700 residents support his petition. Mr. Pace stated his intention was to go before the County Board with six to eight residents voicing their objections to the Intra Club Soccer Facility's rezoning petition and submitting the petition opposing the rezoning petition with 600-700 signatures. He thanked the Board Members who had already signed the petition. He noted that if the other Board Members weren't interested in signing the petition opposing the Intra Soccer Facility's rezoning petition he would remember that in the future.

Consent Agenda

A Motion to approve the March 4, 2014 Village Board Meeting Minutes

A Motion to approve the March 11, 2014 Committee of the Whole Meeting Minutes

A Motion to approve the February 2014 Treasurer's Report

A Motion to approve Bills & Salaries dated March 18, 2014 as follows: General Fund \$83,502.82, Performance Bonds and Escrows \$4,109.20, Water Fund \$ 26,084.19 and Payroll \$58,984.30

President Zirk reported that the March 11th Committee of the Whole Meeting Minutes had been amended to elaborate on a discussion that transpired during the Board of Trustee Reports with respect to deteriorating roadway conditions in some of the Village's subdivisions.

A Motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve the Consent Agenda items A-D as presented. Roll call: Vote: 6-ayes: Trustees Corbett, Mierisch, LeClercq, Zambetti, Farrell, and Hacker. 0-nays, 0-abstained. Motion carried.

Items for Approval

A Motion to approve Resolution 07-2014, a Resolution approving an Assignment Agreement between the Village of Gilberts, Delaware Bond Trust, LLC and William Blair & Company

Administrator Keller reported Resolutions 07-2014, 08-2014, and 09-2014 are all intertwined and part of the process to restructure the \$15 million in debt against the Conservancy property. However, each Resolution will require a separate Board action.

Attorney Tappendorf provided the Board with an overview of each of the proposed Resolutions under consideration. Attorney Tappendorf discussed Resolution 07-2014, if the resolution is approved the Assignment Agreement assigns the developer's rights to certain payments from SSA 24 Bonds in the amount of \$1.2 million dollars relating to SSA 20 expenses. In addition, Attorney Tappendorf noted that the proposed assignment agreement secures the Villages right for the reimbursement of the \$1.2 million that is owed through the SSA 20. The agreement would be conditioned upon issuance of the SSA 24 bonds. After issuance of SSA 24 bonds SSA 19 will be dissolved. Attorney Tappendorf reported that if the Board Members had any additional questions Bond Counsel Bilas was in attendance and would be happy to answer any of their questions.

Attorney Tappendorf went onto discuss Resolution 08-2014. If the Village approves the settlement agreement it would resolve a lawsuit filed by Gilberts Development LLC, as the developer of the Conservancy, against Kane County regarding their collection of interest and penalties on delinquent property taxes and defaulted SSA bonds.

The settlement agreement provides for a onetime payment by the Developer to the Village in the amount of \$274,853.17. The Village will then pay to Kane County the same amount. Kane County will then delivery the property tax certificates to the Village. Following the execution of these actions Kane County will then disburse the proceeds to all respective taxing districts.

Attorney Tappendorf concluded her overview of three intertwined Resolutions by commenting on Resolution 09-2014 which had been revised authorizing the Village President to cancel the tax certificates upon delivery from Kane County and issuance and closing on the SSA 24 Bonds.

Trustee Hacker commented on last Tuesday' s meeting in which Mr. Mertz implied that upon approval of the three agreements the Village would be repaid the 1.2 million dollars. Mr. Mertz apologized for the misunderstanding. The three proposed agreements along with the issuance of SSA 24 bonds are all non-cash transactions. Mr. Mertz along with Attorney Burney discussed in length the mechanisms which provides for the Village to be reimbursed the 1.2 million dollars with interest at a rate of 5.37%. Bond Counsel Bilas discussed the worst case scenarios. She noted that the Assignment Agreement provides for the Village to have all right, title, and interest as the Beneficial Owner of the Assigned Bonds. This action empowers the Village to collect all payments of principal and interest on the redemption price owed on such Bonds and any and all payments and amounts due. If for any reason Gilberts Development LLC was to default on the agreement and the property was forced into foreclosure the Village would control the land which has a current market value above and beyond the \$1.2 million dollars owed to the Village.

There being no further discussion on any of the three intertwined Resolutions, **a Motion was made by Trustee LeClercq and seconded by Trustee Zambetti to approve Resolution 07-2014, a Resolution approving an Assignment Agreement between the Village of Gilberts, Delaware Bond Trust, LLC, and William Blair & Company.** Roll call: Vote: 6-eyes: Trustees Mierisch, LeClercq, Zambetti, Farrell, Hacker and Corbett. 0-nays, 0-abstained. Motion carried.

A Motion to approve Resolution 08-2014, a Resolution approving a Settlement Agreement and Mutual Releases between the Village of Gilberts, Kane County and Gilberts Development LLC

President Zirk inquired if there were any questions on the motion. There being no questions offered, **A Motion was made by Trustee Zambetti and seconded by Trustee LeClercq to approve Resolution 08-2014, a Resolution approving a Settlement Agreement and Mutual Releases between the Village of Gilberts, Kane County and Gilberts Development LLC.** Roll call: Vote: 6-eyes: Trustees LeClercq, Zambetti, Farrell, Hacker, Corbett and Mierisch. 0-nays, 0-abstained. Motion carried.

A Motion to approve Resolution 09-2014, a Resolution authorizing the Village President to cancel certain Tax Certificates

President Zirk noted that Resolution 09-2014 had been amended to reflect that the cancellation of the tax certificates are contingent upon delivery from Kane County and the issuance and closing of the SSA 24 Bonds. President Zirk inquired if the Board Members had any questions on the motion. There being no questions offered, a Motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve Resolution 09-2014, a Resolution authorizing the Village President to cancel certain Tax Certificates. Roll call: Vote: 6-ayes: Trustees Zambetti, Farrell, Hacker, Corbett, Mierisch and LeClercq. 0-nays, 0-abstained. Motion carried.

A Motion to approve Resolution 10-2014, a Resolution approving a Reimbursement Agreement between the Village of Gilberts and Intra Soccer LLC

Administrator Keller provided the Board Members with an overview and intent of Resolution 10-2014. He noted that approval of the agreement with Intra Soccer LLC would establish a mechanism for reimbursing the Village of its costs of providing police services to address alcohol-related disturbances. The reimbursement will be for the Village's actual labor and vehicles costs, not less than \$750.00 per incident. Trustee Mierisch expressed concerns that the reimbursement for services was only if an incident was alcohol related. Trustee Corbett questioned who determines if an incident occurs that it was due to the consumption of alcohol. Attorney Tappendorf replied the officers responding would need to include in their report the fact that alcohol was being served and consumed during the occurrence. A lengthy discussion ensued with respect to reimbursement of services if Gilberts' officers responded to any type of disturbance. President Zirk noted that the agreement's intent is not to generate revenue it is a mechanism to modify the behavior of the owner and patrons.

The Board Members questioned which entity had the authority to enforce zoning and noise violations. Administrator Keller reported that Kane County would be the jurisdictional authority responsible for zoning and noise violations. However, Kane County had included Gilberts' recommendation with respect to outdoor sound amplification to the more restrictive performance standards which was the Village's standards.

The Board Members expressed their frustration with Kane County's lack of cooperation and disregard for the Village's residents. However, the only option and mechanism for the Village to have some control over Intra Soccer LLC activities is to approve the Reimbursement Agreement which has already been signed by Mr. Schcolnik.

The Board Members discussed the possibility if Kane County approved the Intra Soccer LLC rezoning petition and they procured a liquor license they would be eligible to have video gaming. Attorney Tappendorf noted they would be eligible if the County Code permitted video gaming. President Zirk believed Kane County does now allow video gaming.

Mr. Pace expressed his concern with the Board moving forward and approving the Reimbursement Agreement. He reported that currently he had 150 signatures on the petition opposing the rezoning of Intra Soccer LLC and their procurement of a liquor license. President Zirk noted that the residents objecting to the rezoning of the Intra Soccer LLC needs to convince Kane County that the rezoning of the facility is not in the best interest of the adjacent residents or the Village. Mr. Pace reported that he planned on attending the Kane County meeting and submitting the petition opposing the rezoning of said property.

Mr. Pace commented on the fact that if the Board approved the Reimbursement Agreement Mr. Scholnik' Attorney would use the approved agreement as evidence that the Village supported the rezoning petition. President Zirk asked Mr. Pace if he preferred the Village did not adopt the Reimbursement Agreement. Mr. Pace replied yes. President Zirk noted without the agreement the Village would had no enforcement mechanisms in place. Mr. Pace stated he was aware of the implication of not approving the agreement. Mr. Pace reported that a County Board Representative T.R. Smith's opinion the odds of the rezoning petition being denied are better if the Board doesn't approve the agreement. Trustee Corbett inquired what happens if the Board doesn't approve the agreement and the Kane County approves the rezoning then the Intra Soccer facility demonstrates activities requiring police intervention and the Village has no leverage to modify the facility's behavior. Mr. Pace insisted if the Board approved the agreement it guarantees the County would approve the rezoning petition.

Trustee Zambetti commented on Mr. Pace's request to table the Reimbursement Agreement. He thought if there were as many residents opposing the rezoning petition as Mr. Pace claims, then he was in favor of tabling Resolution 10-2014 until after the Kane County Board voted on this matter. Mr. Pace said that would be great. Trustee Corbett asked Attorney Tappendorf for her opinion on tabling Resolution 10-2014 until Kane County voted on the proposed rezoning petition. Attorney Tappendorf noted that the property owner is offering to enter into a reimbursement agreement. In addition, the property is located in unincorporated Kane County and is not obligated to enter into an agreement with the Village. However, if the Board chooses to table Resolution 10-2014 they do have the authority to do so. The question is once the property receives approval from Kane County will Mr. Scholnik be interested in moving forward with the reimbursement agreement.

Attorney Tappendorf noted that the property owner has signed the agreement and there is no time limit included in the agreement that would invalidate the agreement if approved at a later date. Attorney Tappendorf commented on the risk of tabling the agreement. She noted that theoretically Mr. Schcolnik when and if he receives approval from Kane County he could withdraw his agreement with the Village. Trustee Hacker noted that there was one other risk between now and the time the county approves the rezoning petition if the Police Department is called to the said property for an alcohol related concern the Village would not be reimbursed.

Trustee Mierisch reminded Mr. Pace that if this matter is tabled the Village will not have a mechanism in place to deter any inappropriate behavior. Mr. Pace acknowledged that he understood the ramifications of tabling the Reimbursement Agreement. Trustee Corbett commented on the fact from his understanding the County is going to approve the Intra Soccer LLC rezoning petition and the reimbursement agreement is the only tool the Village has to protect the residents from any inappropriate behavior during Intra Soccer LLC operational hours. Trustee Corbett reiterated the fact that if this matter is tabled the risk is Mr. Schcolnik would withdraw the agreement.

Trustee Corbett inquired on what the effective date of the agreement was. Attorney Tappendorf replied the agreement would be in effect upon Board approval and both parties have signed the agreement. Trustee Corbett questioned what the expiration date of the agreement was. Attorney Tappendorf replied the agreement is binding for successors and assigned. However, if there was a transfer of property ownership the agreement would apply if the use was similar to the current use if and when Kane County approves the rezoning petition.

After conclusion of a lengthy discussion Trustee Mierisch stated that she was willing to take the risk of tabling this matter until the Kane County Board votes on the rezoning petition. However, she once again stated the fact if the County votes in Mr. Schcolnik's favor he may withdraw the reimbursement agreement and the Village could have no mechanism to control their operations.

President Zirk commented on the fact if the Board Members concurred to table this matter he would suggest the Board hold a special meeting on April 8th to consider passage of Resolution 10-2014. **A Motion was made by Trustee Mierisch and seconded by Trustee Farrell to table agenda 6 D which is Resolution 10-2014, a Resolution approving a Reimbursement Agreement between the Village of Gilberts and Intra Soccer LLC.** Roll call: Vote: 6-eyes: Trustees Farrell, Hacker, Corbett, Mierisch, LeClercq and Zambetti. 0-nays, 0-abstained. Motion carried.

A Motion of approve a purchase agreement with Sign Depot

Administrator Keller reported that the purchase agreement with Sign Depot is for three community entrance signs at a cost of \$6,400.00 each. He reported that the first two signs will be installed at the northwest corner of Galligan and Freeman Roads at the edge of the school site and on the north side of Higgins Road at the Gilberts/West Dundee border. The third sign will eventually be placed on Higgins Road, west of McCornack Road after completion of the replacement bridge over the expanded 1-90. There was some discussion with respect to the placement of the entrance signs.

There being no further discussion on the motion, **a Motion was made by Trustee Zambetti and seconded by Trustee LeClercq to approve a purchase agreement with Sign Depot.** Roll call: Vote: 6-ayes: Trustees Hacker, Corbett, Mierisch, LeClercq, Zambetti and Farrell. 0-nays, 0-abstained. Motion carried.

FY 2014-FY 2015 Budget

Finance Director Blocker provided the Board Members with an overview on the FY-2014. She noted that the expenses and revenues are tracking close to what was projected with two months remaining in the Fiscal Year. The shortfall is with the cost of this year's snow removal expenses. However, the expenses are eligible for MFT funds. If the Board Members are in favor Finance Director Blocker will draft a Supplemental MFT fund request. There was some discussion on the use of MFT funds. Finance Director Blocker reported that the Village can submit a request to Illinois Department of Transportation for additional MFT funds. However, once approved the Village is not obligated to transfer the funds.

Trustee Mierisch and Trustee Corbett commented on the deteriorating conditions of some of the Village's streets.

The Board Members discussed in length the proposed FY-2015 budget. Administrator Keller reported that he will email the updated FY-2014-FY-2015 Budgets on Friday.

Staff Reports

Administrator Keller reported that he had discussed the concerns with respect to the recently reconstructed roads located in Indian Trails with Engineer Dachsteiner. Engineer Dachsteiner believed the separation in the center line seam was due to the harsh winter and might repair itself as the weather conditions improve.

Administrator Keller reported that he had met with Cemcon and Signature Design Engineers to discuss the schedule for the Town Center Regional Park improvement.

Chief Building Inspector Swedberg updated the Board Members on the status of three street lights that had been out for some time. He noted that the repairs will need to be made by a private contractor. The issue is a fault line that needs to be replaced with copper.

Chief Building Inspector Swedberg provided the Board Members with the schedule for crack sealing and catch basin cleaning.

Finance Director Blocker reported that on behalf of the Village she had been awarded for the third year the GFOA Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting. The Board Members thanked Finance Director Blocker for outstanding efforts.

Board of Trustees Reports

Trustee LeClerc reported that he is now the President of the Citizens Emergency Response Team. CERT members will be assisting with the Easter Egg Hunt and Community Days. They will also be providing CERT Members with updated training on NIMS, CPR, AED and other first aid training classes.

President's Report

President Zirk commented on the Village's commercial and industrial districts property assessments.

Adjournment

There being no further public business to discuss, **a Motion was made by Trustee Zambetti and seconded by Trustee Farrell to adjourn from the public meeting at 9:54 p.m.** Roll call: Vote: 6-ayes by unanimous voice vote. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,

Debra Meadows