

Village of Gilberts  
87 Galligan Road  
Gilbert, IL 60136  
Village Board  
Meeting Minutes  
April 2, 2013

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, Zambetti, Farrell, Hacker and President Zirk. Trustee Clark was absent. Others present: Administrator Keller, Assistant to the Village Administrator Beith, Attorney Tappendorf, and Village Clerk Meadows. For members of the audience please see the attached list.

**Public Comment**

President Zirk asked if anyone in the audience wished to address the Board with respect to any concerns or comments not listed on the agenda. There were no comments from the audience.

**Items for Approval**

**A Motion to approve Bills and Salaries dated April 2, 2013 as follows: General Fund \$10,792.73, Performance Bonds and Escrows \$11,616.00, Water Fund \$13,168.84**

President Zirk asked if the Board Members had any questions on the Bills and Salaries. There were no questions from the Board Members. A motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve the Bills and Salaries as presented. Roll call: Vote: 5-ayes: Trustees Corbett, Mierisch, Zambetti, Farrell and Trustee Hacker. 0-nays, 0-abstained. Motion carried.

**A Motion to approve Ordinance 09-2013, an Ordinance authorizing the Village of Gilberts to borrow funds from the Public Water Supply Loan Program.**

Administrator Keller reported that he had sent out an amended Ordinance reflecting the IEPA's recommendation to remove Section 8 "Reserve Account" due to the fact it might be confusing as the enterprise funds does not have any debt. A motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve Ordinance 09-2013, an Ordinance authorizing the Village of Gilberts to borrow funds from the Public Water Supply Loan Program. Roll call: Vote: 5-ayes: Trustees Mierisch, Zambetti, Farrell, Hacker and Corbett. 0-nays, 0-abstained. Motion carried.

### **Items for Discussion**

#### **Prairie Business Park-Development Agreement Review**

Administrator Keller reported that on Monday he had sent out an amended Interstate Partners Development Agreement. Administrator Keller reported that staff had noted nine substantive questions that will require the Board's direction. He proceeded to discuss the nine outstanding issues.

1. Administrator Keller reported that Interstate Partners request permission to submit landscaping plans 90 days after the submittal of the final PUD and engineering plans for each phase. Typically, the landscaping plans would accompany the engineering plans so staff can review for any potential conflicts. President Zirk asked if the developer was requesting any deviations or relief from the standards set forth in the UDO. Administrator Keller replied no. The Board had no problem allowing Interstate Partners to submit the landscape plans 90 days after the submittal of the final PUD and engineering for each phase as long as they meet the standards of the UDO.
2. Interstate Partners proposes to construct the "offsite" Sola Drive-Center Street water main following the construction of their third building instead of in their initial development phase as required by the Village. In addition, Interstate Partners is looking for relief with posting the surety bond until January 2014. The Board Members were uncomfortable with the project beginning without a surety bond on file. The Board Members noted that if something were to happen to Interstate Partners the Village needs to have a mechanism in place to ensure the infrastructure work is completed. The Board Members unanimously agreed that Interstate Partners is required to post a surety bond as soon as the project begins. However, they had no problem with phasing in the "offsite" Sola Drive water main.
3. Interstate Partners' proposed trail system extending through the development will now be located on private property, not public right of way. Interstate Partners proposed to phase in the trail system instead of building it all at one time. The completion of the trail system is scheduled to be completed by December 2016. President Zirk commented on the original marketing of the development by the developer in which they promised to provide the community with an accessible public trail system.

Interstate Partners' Engineer Gudmundson discussed the proposed design of the trail system. He noted that the majority of the trail system is in the public right-of-way. There is just a small section located on Trillium Drive that was not. There was some discussion with respect to the difference between a Public Utility Easement and Public Right-of-Way. A lengthy discussion ensued on ways in which to ensure the trail system was conveyed as a public trail. Attorney Tappendorf will work with Attorney Baugh to draft language which conveys public access to the trail system.

4. The Village is requiring a two-year guarantee period after the acceptance of any public improvements. Attorney Baugh on behalf of Interstate Partners agreed to this condition.
5. Interstate Partners struck the section of the development agreement regarding the funding of the escrow reimbursement of Village costs to the development. Administrator Keller reported that currently the Village requires an escrow account balance of \$20,000.00. However, after this portion of the process the professional service costs should be reduced. Staff recommends lowering the escrow balance to what they anticipate to be the average monthly professional service costs. The Board Members agreed with staff's recommendation.
6. Interstate Partners wants changes to the liability, indemnification and defense provisions, as well as the acknowledgement that the Village has followed the proper approval processes for the development, found in Section 11 of the document. Attorney Baugh stated that Interstate Partners would be unaware if the Village did or did not comply with proper approval processes since they aren't directly involved in the daily operations of the village. Attorney Tappendorf and Attorney Baugh will draft appropriate language that both sides are comfortable with.
7. The previous version of the development agreement had various cure periods ranging from 5-30 days. Interstate Partners wants 90 days to cure a breach to the agreement. During negotiations with Interstate's representative, Staff offered a compromise of a standardized 30-day cure provision. The Board Members agreed with staff's recommendation.
8. Interstate Partners proposed eliminating language from Section 14 that protects the Village from damages and lawsuits. Their changes would also inhibit the Village's ability to withhold permits if there are violations to the development agreement. Attorney Tappendorf and Attorney Baugh will work together to draft language that is acceptable to both sides.
9. Interstate Partners' requested amending the PUD ordinance to "lock in" all codes and fees as of the date of approval, including specifying the 2003 IBC building codes. However, staff is concerned on if there was any Federal, State, or County mandates or requirement revisions how could that effect the project. Engineer Gudmundson reported that in his past experience projects under construction when new mandates are passed are grandfathered in. President Zirk was sympathetic to their request.

Ms. Barb Clayton owner of the Tyrrell Family Farm asked for clarification on the language referencing the Tyrrell Family Farm access road. Attorney Tappendorf stated that the agreement included several provisions to ensure the access road is provided.

The development agreement includes language addressing the issue if the Tyrrell Farm owner develops its property prior to the completion of the south access road, and the Tyrrell Farm owner constructs and completes the south access road and the extension of the utilities to the Tyrrell Farm property line, then the Tyrrell Farm is entitled to recapture from the Owners for a proportionate share of the costs of constructing the south access road improvements and, if applicable, the extension of utilities to the Tyrrell Farm Property line. Ms. Clayton asked for adequate time to have her professionals review the agreement. Administrator Keller requested Ms. Clayton have any comments on the agreement to him by Friday. Ms. Clayton agreed.

Trustee Hacker inquired about the agreement section addressing the sales tax rebate program. Administrator Keller stated that this section provides for the Village to consider a sales tax rebate agreement to any new sales tax generating business to rebate to the business owner up to 50 percent of the Village's one percent share of the Illinois Retailer's Occupation Tax actually received by the Village. The Village would consider this incentive on case by case bases.

There was some discussion with respect to the Declaration of Covenants. Attorney Tappendorf reported that the current policy is to leave the responsibility of CCR enforcement to the HOA's. However, the Village reserves the right to enforce the CCR's.

Administrator Keller reported that staff will amend the agreement per the Board direction. He reported that he is hopeful the Final Plat could be brought before the Plan Commission on Wednesday, April 10<sup>th</sup>. Administrator Keller was hopeful staff could have the development agreement, PUD Ordinance and the CCR's prepared for the April 16<sup>th</sup> Village Board meeting.

Mr. Greg Scurto owner of Scurto Cement Construction and other family owned businesses in the village thanked the Board Members and the community for supporting their businesses. He noted that he along with his family have a vested interest in the community.

Mr. Scurto discussed his research and development of an environmentally friendly concrete product. The green concrete product reduces stormwater run-off contaminants that eventually would reach wetlands and water sheds. The product is utilized through-out the U.S. and Canada. He is pleased to announce that the concrete product will be used in the Interstate Partners development.

Mr. Scurto reported that his company will be involved with the construction of building one. The steel fabrication for building one has been completed and has been sitting at the manufacture for some time. He respectfully asked the Board to consider allowing his company to begin construction on building one at his own risk.

Attorney Tappendorf discussed the fact that if the preliminary plans were to change Mr. Scurto would be responsible for removal or relocation of the foundation and steel fabrication materials. Mr. Scurto acknowledged his responsibilities to restore the site to the original condition. Trustee Mierisch would like staff to check with Chief Building Inspector Swedberg on the status of building one's permit prior to allowing Mr. Scurto to begin construction. In addition, Mr. Scurto will be required to post a performance bond. The Board Members agreed if Mr. Scurto is in compliance with the conditions set forth he may precede construction on building one at his own risk. Mr. Scurto thanked the Board Members.

**FY-2013 Budget Adjustments / FY-2014 Budget**

Administrator Keller discussed the FY-2013 surplus. Trustee Hacker reported that he was in favor of funding park improvements including permanent electricity to Town Square Park. In addition, he supports a stormwater/drainage maintenance and repair program. Both park improvement and drainage/stormwater improvements would serve as a benefit to the entire community.

Trustee Hacker questioned what types of task would be assigned to the proposed Intern. In his opinion the proposed wages allocated toward funding an Intern position would be better spent funding additional Village wide drainage improvements. Administrator Keller reported that he will be introducing a stormwater management program at the next Committee of the Whole meeting and had no problem with eliminating the Intern position.

Trustee Farrell suggested maybe the Board should hold off on hiring an Intern this year and see how the adjustment of funding the Assistant Village Administrator position's plays out.

Trustee Mierisch expressed concern with all the upcoming development and current staffing levels. In her opinion staff may become overwhelmed and this would have a reflection on the Village's ability to provide professional services to the community. Trustee Zambetti agreed. Trustee Hacker would like to see a job description for the Intern position.

Trustee Corbett agreed with funding a stormwater management program if staff or the consultants would be documenting repairs and maintaining a punch list. He is also in favor of park improvements including permanent electrical power to Town Square Park.

Trustee Mierisch would like to see more funding and staff time spent on Economic Development. A lengthy discussion ensued with respect to what type of tools could be used to improve the Economic Development efforts.

Trustee Zambetti suggested the Village invest in new entrance signs.

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Administrator Keller noted that he had an idea on what projects the Board Members were in favor of funding. He will draft a project list which will include the associated project costs.

**Trustee Reports**

Trustee Corbett recognized Assistant to the Village Administrator Beith's revisions to the Staff Weekly Report. He noted that there was more details than was previously contained in the memo.

**Adjournment**

There being no further public business to discuss, a motion was made by Trustee Zambetti and seconded by Trustee Corbett to adjourn from the public meeting at 9:37 p.m. Roll call: Vote: 5-ayes by unanimous voice vote. 0-abstained, 0-nays. Motion carried.

Respectfully submitted,

Debra Meadows