

September 4, 2007

The regular meeting of the board of trustees of the Village of Deerfield was called to order by Mayor Steven Harris in the Robert D. Franz Council Chambers of the village hall on Tuesday, September 4, 2007 at 7:30 p.m. The Clerk called the roll and announced that the following were:

Present: Steve Harris, Mayor
Robert Benton
Michelle Feldman
Thomas Jester
Harriet Rosenthal
William Seiden
Barbara Struthers

and that a quorum was present and in attendance. Also present were Village Attorney Peter Coblentz and Philip Kiraly, Interim Village Manager.

PLEDGE OF ALLEGIANCE

Dr. Jerry Zachar, Director of Social Services for the village, led those in attendance in reciting the Pledge of Allegiance. Dr. Zachar informed residents that Mudfest would be on Sunday, September 9, 2007 from noon to 3:00 pm. He informed residents that Mudfest is a 17 year tradition in Deerfield and is a day filled with fun, games and a pie eating contest.

MINUTES OF PREVIOUS MEETING

Trustee Rosenthal made a motion to approve the minutes from the August 20, 2007 board of trustees meeting. Trustee Benton seconded the motion. The motion passed unanimously, with Trustee Feldman abstaining.

BILLS AND PAYROLL

Trustee Rosenthal made a motion to approve the Bills and Payroll dated September 4, 2007. Trustee Struthers seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Rosenthal, Seiden, Struthers (6)

NAYS: None (0)

ROTARY CLUB PRESENTATION

Trustee Struthers, current president of the Deerfield Rotary, explained that a major function of the Rotary Club is helping communities. Because of the loss of 5 teenagers over the past year to drugs and alcohol, the Deerfield Rotary wanted to help in the village's campaign for public awareness. Trustee Struthers, along with other Rotarians, presented the village with two banners highlighting the "Parents Who Host Lose the Most" campaign for the new banner pole at US Bank and at the Farmer's Market. Mayor Harris thanked the Rotary Club.

Mayor Harris explained that State Senator Susan Garrett held a town hall meeting regarding the recent power outages and response from ComEd. Mayor Harris, Trustee Seiden, Trustee Struthers and Interim Manager Kiraly attended the meeting.

Bill Vollar, Regional Director for External Affairs for ComEd, discussed highlights from the morning meeting. Mr. Vollar explained that the August 23, 2007 storm was one of the most destructive storms in 10 years. 310,000 customers lost power due to more than 80,000 lightning strikes and 3 inches of rain between the hours of 2:00 pm and 8:00 pm. There were also more than 5000 downed trees that needed to be dealt with before the restoration. Mr. Vollar explained that safety is their first priority. ComEd needed to make sure the limbs and trees were removed prior to repairing downed power lines and poles. After the areas were assessed, they were prioritized. Hospitals and emergency care facilities were first, followed by senior facilities, high rises (areas with a large number of customers) then areas with a small number of customers. ComEd mobilized thousands of contractors and crews from all areas, and they worked 16 hour shifts.

Shah Quaiyoom, External Affairs Manager for ComEd, explained that the main circuit outages must be repaired before the small circuit outages. Mr. Quaiyoom explained that 90% of the 1100 customers affected in Deerfield had their power restored within 24 hours.

Joel Schaidler, 1021 Stratford, appreciated the discussions on the severity of the storm. He explained that Stratford West has had frequent and prolonged power outages over the past several years. He read a short letter directed to Phil Kiraly, from his neighbor Bruce Hurwitz at 1022 Stratford. Mr. Schaidler respectfully requests a dialog be started between the village and ComEd, to determine the cause of the frequent power outages.

Susie Hurvitz, 1022 Stratford, explained ComEd has not addressed the problems. She is frustrated because every time electricity goes out, resident's lives are negatively affected. She explained they are losing trust with the issue, and it is affecting the entire Stratford neighborhood. Residents have complained for more than a year and need to know what can be done. They are asking for the village's support. She explained that they lose power in all weather, not just storms. She explained that the residents are begging for the board to help get a reliable source of electricity in their neighborhood. She explained the urgency of the matter and asked that the trustees look at the big picture.

Joe Talleanno, 1160 Linden Avenue, did not hear anything about capital investment plans from ComEd. There is a serious infrastructure problem and the utility needs to review the capital plans to secure the service in town.

Mayor Harris commented that he believed the town hall meeting was very lenient on ComEd. He explained that Deerfield has had a change in housing over the past several years, and the infrastructure ComEd has in Deerfield is not sufficient. The communication with the residents has been deplorable and needs to improve.

Mayor Harris questioned why contractors and crews needed to be brought in from other states. He explained that the storm just unmasked problems and that numerous Deerfield residents frequently lose power. The board advised counsel to discuss remedial measures with ComEd.

Trustee Feldman questioned if there is something that residents could do to ensure their issues are addressed. Mr. Vollar proposed establishing a comprehensive plan for the Village of Deerfield to address the problem areas in the community. Mr. Quaiyoom believes that this plan can be put together in approximately 2 weeks would be an attainable time frame, whereby they could report to staff and work through what areas must be addressed.

Trustee Rosenthal noted that there were a tremendous number of power outages in Deerfield. ComEd fixed the issues, but there has been no additional communication or follow through. She recommended implementing a proactive approach, by putting ComEd on the board agenda every 6 months, but mentioned that to have to do so is frustrating as the board should not have police ComEd's operations.

Trustee Seiden expressed concern because the only time people get satisfaction with ComEd is when they come to a board meeting. At the town hall meeting, everyone was talking about what ComEd has done rather than what is being done to correct the situation. There has been a significant rate increase. He questioned how that money is being used. He does not believe it is not being used to upgrade the infrastructure. He also believes there should be enough equipment and backup to take care of the issues.

Mayor Harris asked ComEd to develop an action plan and to work with staff to ensure it is implemented and its goals accomplished in a timely fashion.

PUBLIC COMMENT

There was no public comment.

REPORTS

REPORT AND RECOMMENDATION
OF PLAN COMMISSION RE: REQUEST
FOR A TEXT AMENDMENT AND
SPECIAL USE TO PERMIT THE
ESTABLISHMENT OF A DOG DAY
CARE AND GROOMING FACILITY
AT 495 LAKE COOK ROAD

The Plan Commission held a public hearing on July 26, 2007 which was continued to August 9, 2007 to discuss the request by The Barking Lot and Lake Cook Plaza to consider a text amendment and special use to permit the establishment of a dog day care and grooming facility at 495 Lake Cook Road. The Plan Commission recommended approval of the request by a vote of 4-2.

Trustee Rosenthal recused herself from this matter because of a relationship with the petitioner. She explained that she spent time reviewing the request objectively and believes this is a good use for the property.

Mr. Matt Kriser and Mr. Brad Kriser, owners of the two Barking Lot locations in Chicago, explained that they have been in business for more than five years. He explained that they have a regular clientele as well as a retail store. Their boarding, day care and training services are for dogs and they groom both dogs and cats.

Mr. Brad Kriser explained that they are aware of the issues that need to be addressed. He explained that both of their locations are in a mixture of residential and urban environments. One concern that is often thought of is noise. He does not believe noise is an issue, because the dogs are primarily inside and neighboring businesses would not be affected. Mr. Kriser explained they have letters from neighbors to attest to that fact.

He explained the second issue is odors and smells. One of the things that is paramount to their organization is keeping the facilities in good condition. He explained they would not be able to stay in business if it was not a clean-smelling environment. The use of the outside areas, for play purposes, would comply with the hours set by village, so it does not affect lunch or dinner times. They are also building a fence, so dogs would not bark at cars passing by.

Mr. Kriser explained they believe all dogs must be socialized. They have 3 playrooms in the facility. The proposed Deerfield facility is an upscale facility with larger kennels, different rooms for more private accommodations. They believe the location, adjacent to railroad tracks, would have little impact. The restaurant (Nick's Fishmarket Grill) is across the street. Mr. Brad Kriser believes that the mall is losing tenants and that they will help to bring in new traffic into Lake Cook Plaza. He explained that Kindercare will be leaving the center in 2008 and The Barking Lot would add significantly to the tax base as well.

Mr. Scott Suckow, Vice President of Really Nice Restaurants, owner of Nick's Fishmarket Restaurants, believes The Barking Lot would have a detrimental impact on their business. He explained that dogs leave deposits that smell. He believes the Plan Commission should not have approved the use, because the adoption of the ordinance would not be in the best interest of the public. In addition, he does not believe a dog kennel is compatible with the existing development.

Mr. Suckow distributed photographs of the Chicago locations of The Barking Lot. He does not believe the existing locations are upscale. Mr. Suckow believes the petitioner embellished when describing their current locations. Mr. Suckow explained that Nick's Fishmarket Grill is a first class restaurant. When they looked for their third location, they wanted to be in a nice, prestigious area. If there were a dog kennel across the street, or if they thought a kennel would move across the way, they would not have leased that location.

Mr. Suckow explained they hear the trains at the restaurant and do not believe a fence would be a proper deterrent to barking dogs or the odors associated with the dogs. Although the trains are loud, he believes the dogs are louder. In addition, this location is much larger and would house as many as 100 dogs. Mr. Suckow noted that the other two locations do not have outdoor dog runs or multiple dogs outside.

Mr. Suckow explained that the petitioner stated the center is losing business; however, he does not believe this is the case. He explained that within the past year, Nick's Fishmarket Grill, National City and the Tile Shop have all located their businesses in Lake Cook Plaza. In addition, the cross access with Deerbrook Mall brings additional traffic into the center.

Mr. Suckow believes that the other locations have a urine odor. In addition, pea gravel was placed, because the grass was killed due to the dog's urination. He noted that the petitioner would be installing ventilation fans, which will blow the odor outdoors and affect their customers. He noted that the petitioner stated there was no odor. He believes this is relative, because people expect a different odor in a dog kennel than a restaurant.

Lee Suckow, Chairman and CEO of Really Nice Restaurants, noted that he sent a letter to the trustees. He believes that if this business were an essential service for Deerfield residents, they would not have waited 100 years to enter the village. He believes The Barking Lot would hurt their business.

Trustee Feldman asked if Mr. Suckow was concerned about noise. Mr. Kriser explained that they would have soundproofing indoors. She noted that the recommendation restricts the times that the dogs could be outside, and they would not be allowed outside during lunch or dinner hours.

Trustee Feldman noted that she has visited a number of other dog kennels and typically, the only odor she smelled was disinfectant. Mr. Lee Suckow commented that the dogs entering and exiting the kennel could urinate or defecate. Trustee Feldman suggested moving the customer entrance to the rear of the building, so restaurant customers would not see the dogs entering or leaving the facility as easily. In addition, the Barking Lot customers would be responsible for picking up after all dogs.

Trustee Struthers explained that she brings her dog to a dog park where approximately 200 dogs visit daily. She has never had an issue with the odor unless standing adjacent to the waste receptacle where people dispose of the dog droppings.

Don Parker, representing the ownership of Lake Cook Plaza, explained that the distance between the proposed Barking Lot and Nick's Fishmarket Grill is approximately 125 feet. He believes this is a great enough distance that odor will not negatively affect Nick's Fishmarket operations. Mr. Parker commented that the ownership of Nick's Fishmarket Grill have asked to be released from their lease. He does not believe their business is doing well and that they are blaming The Barking Lot for problems that already exist. He noted that the 3 other restaurants in Lake Cook Plaza have not expressed concern.

Michael Swartz, Chairman of the Plan Commission, explained that the two commissioners that voted against the petition were in favor of the use, but

not the site. He explained that the petitioner said they would comply with the village nuisance code and the Illinois agriculture codes.

Mr. Scott Suckow commented that Mr. Parker neglected to mention that Lake Cook Plaza was being sold. He reassured the trustees that Nick's was not having problems.

Trustee Struthers questioned the ammonia odor inside the facility. Mr. Brad Kriser explained their HVAC system would provide 15 air changes per hour, creating a clean and safe environment. They will be purchasing industrial wet-dry vacuums and everything will be done by hand. He explained they would not install trench drains.

Mr. Coblentz explained there are two items for the board's consideration. There is a text amendment, which is a legislative decision. If approved, the proposed kennel would become presumably allowed if the 6 special use conditions were met.

Trustee Seiden stated that he is not in favor of this use at this location because he believes it would be injurious to the existing tenants. He does not feel an operation of this sort should be located in this location. He thinks the dog kennel would be a turn off for the restaurant. He thinks that if the kennel were there when the restaurant moved here, they would not have moved to that location.

Trustee Benton explained that people come to restaurants for the quality of the restaurant. Nick's is a quality restaurant and it will continue to be a quality restaurant. He believes the trustees are considering expanding the number of businesses that serve the residents of Deerfield.

Trustee Struthers made a motion to approve the text amendment to permit kenneling in the C-2 Zoning District. Trustee Benton seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Seiden, Struthers (5)

NAYS: None (0)

ABSTENTIONS: Rosenthal (1)

Trustee Feldman made a motion to approve the special use to permit dog kenneling and dog grooming in the C-2 Zoning District with the patron entrance to be relocated to the rear of the building, facing the railroad tracks. Trustee Struthers seconded the motion. Mr. Coblentz explained that four votes would be needed to pass. The motion did not pass by the following vote:

AYES: Feldman (1)

NAYS: Benton, Jester, Seiden, Struthers (4)

ABSTENTIONS: Rosenthal (1)

Trustee Benton made a motion to approve the special use to permit dog kenneling and dog grooming in the C-2 Zoning District as recommended by the Plan Commission, with sign modifications for the east wall sign. Trustee Struthers seconded the motion. The motion did not pass by the following vote:

AYES: Benton, Jester, Struthers (3)
NAYS: Feldman, Seiden, Harris (3)
ABSTENTIONS: Rosenthal (1)

Trustee Feldman made a motion to reconsider the special use to permit dog kenneling and dog grooming in the C-2 Zoning District as recommended by the Plan Commission, with sign modifications for the east wall sign. Trustee Benton seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Struthers (4)
NAYS: Seiden (1)
ABSTENTIONS: Rosenthal (1)

Trustee Feldman made a motion to approve the special use as recommended by the Plan Commission, with the patron entrance relocated to the rear of the facility facing the railroad tracks, including sign modifications for the east wall sign. Trustee Struthers seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Struthers (4)
NAYS: Seiden (1)
ABSTENTIONS: Rosenthal (1)

**REPORT AND RECOMMENDATION
OF BOARD OF ZONING APPEALS RE:
REQUEST FOR VARIATION TO
PERMIT A DETACHED ACCESSORY
STRUCTURE IN A REQUIRED SIDE
YARD AT 1426 AMBLESIDE DRIVE**

The Board of Zoning Appeals held a public hearing on August 7, 2007 to consider the request of petitioners Josh and Lisa Carl, 1426 Ambleside Drive, for a variation to allow construction of a 9' x 17' shed in a required side yard. The Board of Zoning Appeals voted to deny approval of the request by a vote of 6-0.

Bob Kenny, Attorney for the Carl family and Deerfield Resident, believes this is a unique request because there is a building setback established on the plat. He explained the only area that the shed can be placed would be next to the patio in the useable space. Mr. Kenny believes the southwest corner of the lot, in the side yard, would be the most appropriate place because there is a two foot decrease in topography. He explained that if the ground level of the shed started at the east lot line of the fence, by the time they got nine feet to the west, the floor level of the shed would be approx. 1.5' below grade. The fence follows the grade. The shed roof would be at or below the fence line, but the height of the fence would be at 7.4' due to the elevation. At the east end, the height would be 6' and would not exceed the 6' fence height at the west end because of the elevation.

Trustee Jester asked if the Carl children could use the fenced in area of the side yard to play. Mr. Kenny explained that the children are too young to play there unsupervised. He commented that the BZA Chairman recommends staying 10' from the house and going a bit north, which would allow 15' to the lot line. He believes if they followed his recommendation, the shed would be lifted to a higher elevation and more visible to the neighbors. He questioned whether it would be better to follow the zoning ordinance or lessen the impact to the neighbors.

Trustee Struthers expressed concern about setting a precedent in a visible corner lot. Trustee Rosenthal understands the pragmatic issues, but is having difficulty finding hardship. Mr. Carl explained they are trying to do what is best for the neighbors. The code states they could build a 20' shed, but he does not believe that would be best for anyone.

Trustee Feldman questioned if the shed could go next to the swing set. Mr. Kenny explained that the children could get behind the shed, because of the 10' setback.

Bob Speckman, Chairman of the Board of Zoning Appeals, explained that the building line dictates the side yard. He noted it has a 15' side yard setback. In homes with a 30' side yard setback, the ordinance does not allow accessory structures. If our typical ordinance requirements were applied to the lot, they would only be 10' off the property line.

Trustee Seiden commented that he believed that there is no possibility to put the shed where they want it, according to the ordinance. Mr. Speckman explained that if the setbacks were normal, the shed would have been in compliance. If a variation were needed, there would be no uniqueness.

Trustee Seiden asked if the variation request was reasonable. Mr. Speckman does not know how the shed could be built with the fence. In addition, he does not know how two sides of the fence and structure could be maintained. Mr. Kenny explained that the shed could be moved 2' to the north and west, to allow room for maintenance and still accomplish everything with the original topography.

Trustee Rosenthal made a motion to accept the report and recommendation of the Board of Zoning Appeals regarding a request for a variation to permit a detached accessory structure in a required side yard at 1426 Ambleside Drive. Trustee Struthers seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Rosenthal, Seiden, Struthers (6)
NAYS: None (0)

CONSENT AGENDA

ORDINANCE APPROVING AN
AMENDMENT TO THE SIGNAGE
PLAN FOR TAKEDA
PHARMACEUTICALS TO PERMIT A
LARGER GROUND SIGN AT ONE
TAKEDA PARKWAY – 1R

An ordinance approving an amendment to the signage plan for Takeda Pharmaceuticals to permit a larger ground sign at 1 Takeda Parkway. First Reading.

AUTHORIZATION TO ENTER INTO
AN AGREEMENT FOR THE 2008
DEERFIELD FESTIVAL OF FINE ARTS

Authorization to enter into an agreement with D & W Events, Inc. for the 2008 Deerfield Festival of Fine Arts.

Trustee Rosenthal made a motion to accept the consent agenda. Trustee Seiden seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Rosenthal, Seiden, Struthers (6)
NAYS: None (0)

OLD BUSINESS

There was no old business.

NEW BUSINESS

AUTHORIZATION TO APPROVE
RECAPTURE AGREEMENT FOR 130
N. FAIRVIEW STORM SEWER

Bob Kenny, Attorney for David Dubin and Deerfield Resident, Kenny explained that Mr. Dubin has been asked to install a storm sewer with 4 other connections, which will become part of the public

storm sewer system. He is asking for a recapture agreement for 75% of the cost of the improvement, along with legal fees and interest.

Trustee Rosenthal believes Mr. Dubin is doing a service for the village and believes he should recapture his costs and interest. She does not believe his legal fees should be included, because anyone that taps into the sewer would also have attorney fees. Mayor Harris believes the legal fees that directly apply should be included.

Trustee Seiden made a motion to approve the recapture agreement including interest and legal fees not to exceed \$4000 for the 130 N. Fairview storm sewer. Trustee Rosenthal seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Rosenthal, Seiden, Struthers (6)
NAYS: None (0)

AUTHORIZATION FOR VILLAGE
MANAGER TO APPROVE CHANGE
ORDERS FOR THE VILLAGE HALL
EXPANSION AND RENOVATION
PROJECT

Mr. Kiraly explained that renovations are under way for the original section of the village hall. When the project was bid in June 2006, staff intended to rehabilitate the gutters, soffits and fascia. During initial demolition, it was discovered that the 50 year old wood was not salvageable. Staff recommends

replacing the entire structure around the building, to match the new village hall. In addition, staff recommends replacing 9 additional windows, so they would match and be more energy efficient. Mr. Kiraly believes these issues should be addressed now rather than in the future while we can take advantage of crews already on the site.

Trustee Rosenthal made a motion to authorize the village manager to approve change orders for the village hall expansion and renovation project in an amount not to exceed \$67,347. Trustee Benton seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Rosenthal, Seiden, Struthers (6)

NAYS: None (0)

AUTHORIZATION TO AWARD
CONTRACT FOR VILLAGE
BENCHMARK CIRCUIT PROGRAM

The Director of Public Works and Engineering explained that the benchmark circuit throughout the village is very old and has greatly declined over the years. She explained it is marginally effective and

not very continuous throughout the village. Ms. Little explained they put together a program to establish a whole circuit of benchmarks throughout the village that meets survey specifications. Three sealed bids were publicly opened. The Director of Public Works and Engineering recommends awarding the contract for the village benchmark circuit program to Hampton, Lenzini and Renwick, the lowest bidder, in an amount not to exceed \$45,000.

Trustee Rosenthal made a motion to award the contract for the village benchmark circuit program to Hampton, Lenzini and Renwick in an amount not to exceed \$45,000. Trustee Seiden seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Rosenthal, Seiden, Struthers (6)

NAYS: None (0)

AUTHORIZATION TO AWARD
CONTRACT FOR PHASE I AND
PHASE II ENGINEERING FOR THE
REDESIGN OF THE INTERSECTION
AT WAUKEGAN ROAD AND
CHESTNUT ROAD

The Director of Public Works and Engineering explained that the traffic signals are 35 years old and in poor condition. The village is working with McDonough Associates on this improvement, including dual left turn lanes out of the shopping center. McDonough Associates provided proposals of \$33,000 for phase I and phase II engineering for

the redesign of the intersection at Waukegan Road and Chestnut Street. Ms. Little noted that the

plans still need to go to the Illinois Department of Transportation and the Cook County Highway Department for approval.

Ms. Little explained that part of the request includes the installation of count down lights wherever new traffic lights are installed. They are also trying to upgrade existing village traffic signals to LED lamps.

Trustee Jester made a motion to award the contract for Phase I and Phase II engineering for the redesign of the intersection at Waukegan Road and Chestnut Street to McDonough Associates in an amount not to exceed \$33,000. Trustee Seiden seconded the motion. The motion passed by the following vote:

AYES: Benton, Feldman, Jester, Rosenthal, Seiden, Struthers (6)

NAYS: None (0)

DISCUSSION

EXECUTIVE SESSION

moved to 6:30 p.m. on September 17, 2007.

Mayor Harris explained that because of the time, the conclusion of the executive session will be

COMMUNITY SERVICE DAY

Brickyard Park. There will be a safety car seat check from 9:00 – 11:00 am at the south parking lot. From 9:00 – noon, SWALCO will hold an electronics collection at Public Works. They will also have gas can and lawn equipment replacement programs where residents can trade in old lawn equipment for vouchers or metal gas cans for plastic.

Mr. Kiraly informed residents that Community Service Day will be held on September 15, 2007 at

THANK YOU

Mayor and trustees for their continued support during the interim period. He explained that Kent Street, the new Village Manager, would be starting on September 17, 2007. He thanked the board for the opportunity to serve and looks forward to continuing his work with the Village as Assistant Village Manager.

Mr. Kiraly, who has served as Interim Manager since Bob Franz's retirement in June, thanked the

ADJOURNMENT

There being no further business or discussion, the meeting was adjourned at 10:30 pm.

APPROVED

Mayor

ATTEST:

Village Clerk