

**MINUTES  
COMMITTEE OF THE WHOLE MEETING  
VILLAGE OF VERNON HILLS  
JUNE 21, 2005**

IN ATTENDANCE: President Byrne called the meeting to order at 7:50p.m. The following Trustees were present: Hebda, Koch, Marquardt, Schultz, Schwartz, and Williams.

Also present were Manager Allison, Finance Director Nakrin, Building Commission Gerth, Police Chief Fleischhauer, Public Works Director Laudenslager, Village Engineer Brown and Attorney Citron.

1. **APPROVAL OF COMMITTEE OF THE WHOLE MINUTES (DELAYED)**
2. **CONSIDERATION OF REQUEST FROM THE COUNTRYSIDE & LINCOLNSHIRE/RIVERWOODS FIRE DISTRICTS TO ADOPT ORDINANCES REQUIRING DEVELOPERS OF NEW RESIDENTIAL AND COMMERCIAL BUILDINGS TO MAKE MONETARY CONTRIBUTIONS TO THE FIRE DISTRICT BASED UPON THE NUMBER OF BEDROOMS LOCATED WITHIN EACH RESIDENTIAL UNIT OR, ON THE TOTAL FLOOR AREA OF A COMMERCIAL BUILDING.**

President Byrne stated that the Board had Attorney Citron's opinion and asked him if there was any new legislation that would give the Board authorization to require contributions. Attorney Citron stated there was no new legislation since the Board originally reviewed this several years ago. He explained municipalities' ability to levy impact fees. Attorney Citron stated at this time he found nothing that would authorize the Village to implement an across the board contribution requirement for fire department services. He stated that the Village had negotiated contributions for the fire districts on a project-by-project basis. Trustee Koch asked if there was anything that would prohibit the Board from doing this. Attorney Citron stated case law says non-home rule municipalities can only impose such ordinances or take action that they are specifically authorized by statute. President Byrne stated that homebuilders are always seeking relief from the impact fees imposed on them. Attorney Citron stated the Board had to make policy decisions based on what development was left and how the policy would impact that development. President Byrne asked when the Village becomes home rule, could an ordinance be drafted? Attorney Citron stated when the Village becomes home rule, there was a stronger basis, but there still were questions on impact fees in the law and the significant nexus with the impact. He has not seen a study that backed up the fire districts' request. Attorney Citron stated if the Board passed an ordinance, he believed it would not withstand an inevitable challenge. Trustee Schultz stated he had asked Manager Allison about possible indemnification from the fire districts, which he felt the Board would need before further discussion because this action would put the Village in a position to have significant legal costs if there was a challenge. Attorney Citron stated indemnification was not a perfect vehicle; based on who directs the litigation, selection of attorneys, if substantial fees were collected and, if the challenge prevailed, how would the judgment get paid when the Village was not the direct financial beneficiary of the fees, and because the fire districts were collecting the fees to spend, the money would not be escrowed. He discussed how this would impact development in the TIF district.

Citing the requests in paragraphs 3 and 5 of the fire districts' letter, Trustee Williams asked Attorney Citron about the Village's ability to require sprinklers in all new attached single family units and sprinkler systems to be monitored by fire alarms. Attorney Citron stated the Village had the authority to impose those rules.

Trustee Koch stated that the fire districts were asking for three separate actions and the Board had the authority to approve two of the three requests, the exception being the impact fees. President Byrne stated the Board was not precluded from collectively discussing with Westfield what their needs were, as done in the past. Home rule status was discussed.

Trustee Marquardt stated his concerns with requiring residential sprinkler systems were the cost per unit and monitoring fees.

Fire Chief Jim Spiegel, Countryside Fire Protection District, and Tony Ugaste, Lincolnshire- Riverwoods Fire Protection District, discussed the Barrington Area Council of Government (BACOG) formula. Fire Chief Spiegel acknowledged there was legal liability. He stated a way of managing the liability was to review what was appropriate for a development as they start the process, before it came on the tax roles. This would be one way of keeping the fire districts from asking the taxpayers for tax rate hikes even with the expansion. President Byrne asked if the fire districts had a projection on the amount of revenue that would be generated. Fire Chief Spiegel stated it would be unfair to use past history because Vernon Hills has exploded with development, such as Gregg's Landing. President Byrne asked about commercial development, such as the expansion of Westfield and the Route 21 development. Chief Spiegel stated the BACOG formula was based on residential not commercial. President Byrne stated Vernon Hills would not experience the development of the past 15 years, and future development would be infill and some condos and townhomes in the TIF District, approximately 100 townhomes at Aspen and Route 60, and about 200 units in Gregg's Landing. The concentration now would be on commercial expansion. Assistant Manager Kalmar stated, if both fire districts were combined, there would be approximately 400 additional units to be built in the community. Attorney Citron discussed how this would affect current developments. He stated in the TIF District what the developers consider extraordinary cost would get added to their request for assistance from the Village. He stated ultimately the only major development affected would be the expansion of the mall, but would review annexation agreements.

Trustee Schwartz asked Attorney Citron if neighboring communities have approved this and are now open to be challenged. Attorney Citron stated neighboring communities have accepted this and are open to be challenged.

Trustee Koch stated, even if the Board does not accept this, the fire districts would be kept in the loop for negotiation with future developments and would be a high priority with any negotiation. Fire Chief Spiegel expressed his appreciation due to the impact on their services. President Byrne stated whenever the northeast corner was developed; it would go higher than any development in town with a potential hotel and multi-family residential units.

Tony Ugaste stated that when the Village forms TIF Districts, the fire districts are forced to protect the TIF District, but their hands are cuffed in their abilities to provide funding to do so. President Byrne discussed tax benefits for TIF Districts.

Motion by Trustee Koch and second by Trustee Hebda to approve a request by Countryside and Lincolnshire/Riverwoods Fire Districts to adopt an ordinance requiring developers of new residential and commercial buildings to make monetary contributions to the Fire District based upon the number of bedrooms located within each residential unit or on the total floor area of a commercial building.

AYES: 2 – Koch, Hebda

NAYS: 4 – Marquardt, Schultz, Schwartz, Williams

ABSENT: 0 – None

Motion declared failed.

**3. CONSIDERATION OF REQUEST FROM THE COUNTRYSIDE & LINCOLNSHIRE/RIVERWOODS FIRE DISTRICTS TO ADOPT ORDINANCES REQUIRING ALL NEWLY, CONSTRUCTED MULTI-FAMILY DWELLING BUILDINGS (APARTMENTS, TOWNHOUSES, CONDOMINIUMS, AND DUPLEX-STYLE RESIDENTIAL BUILDINGS) TO INCLUDE A FIRE PROTECTION SPRINKLER SYSTEM.**

Village Manager Allison asked Building Commissioner Gerth to discuss current developments. Building Commissioner Gerth stated that the Village does not have a requirement that detached single family homes or townhomes under three stories be sprinklered. He stated 27 Chicago area communities have adopted ordinances to sprinkler detached single family new homes. Residential buildings over three stories, such as Amli, are required to be sprinklered. He stated one of the issues that was raised during the impact fee discussion that he felt was important in adopting any ordinance was the cost; what was the ultimate cost passed on to the resident purchasing or living in the unit. He stated the cost for sprinklers in townhouse/apartment type buildings would be approximately \$3.50 - \$4.50 per square foot. He also emphasized that the Village was not looking at sprinklering new detached single family homes, but multiple family, such as duplexes, townhouses, and condos. A 2,000 square foot townhouse unit would

cost approximately \$6,000 to \$8,000 to sprinkler. He stated this would provide added safety to the building. Trustee Schultz asked about an approximate dollar amount in savings for homeowners' insurance. President Byrne stated there would be a savings. Building Commissioner Gerth asked for consideration of several developments well into the approval process and the impact that would result should the Board direct to move forward. He stated it would 30-45 days to make the necessary ordinance amendments to bring back before the Board. President Byrne asked if there was technology available to prevent a homeowner from accidentally activating the sprinkler with smoke from cooking. Building Commissioner Gerth stated the technology exists and in a residential unit, the system was installed on the interior walls so it would not be susceptible to freezing and the sprinkler heads are more strategically placed than in an office building. Trustee Marquardt stated Waukegan requires sprinkler systems over water heaters and furnaces. He discussed the additional cost added to the unit. President Byrne stated there would be a need for sprinkler testing.

Chief Spiegel stated he retrofitted his home after purchase. He stated it was much more complicated to retrofit than to do during new construction. He stated the cost of \$4.00 per square foot required more technical things that would not be seen in the common buildings that had sharing walls, roofs, and foundations. The Fire Districts wanted to ensure that if a fire occurs in one unit it did not affect the entire building. He stated historically there were four fire deaths in Vernon Hills, which occurred in multi-family buildings and children, even with supervision, were unable to get out of the building. He stated the Villages of Libertyville, Mundelein, Hawthorn Woods, Indian Creek, Long Grove, and Lake Forest have put this in place. President Byrne asked if the Fire Districts were requesting retrofitting the existing buildings. Chief Spiegel stated they were not, unless a different technology comes into play. Chief Spiegel stated the fires took place on Westmoreland and in Plymouth Farms. The fire history of Vernon Hills was discussed. Chief Spiegel stated he saved \$80 per year on his homeowners' insurance and the cost installation (with cost savings) was approximately \$1.50 per square foot. President Byrne stated a contractor's cost would be in \$3 - \$4.50 range. Chief Spiegel agreed. President Byrne stated he thought this was a good idea and wished it could be accomplished in the multifamily residential units in town, but would be hesitant to put the financial burden on that many residential units. He would not want to impose this on an already approved development.

Trustee Schwartz asked how effective fire walls were in containing a fire within a unit. Chief Spiegel stated they worked and did not, depending on what the fire was and where the fire was at. In some cases, they were very effective in keeping the fire confined, but the heat and intensity builds up, approaches flash over faster, and then has the energy to penetrate non-fire walls, such as doors, windows, eaves, soffits, etc., and starts moving through any violation of the walls, such as nail holes. The flash over equation was the challenge for Fire Departments. Tony Ugaste stated the problem was in years after construction and inspections, holes are punched through the fire walls making them ineffective. He stated the other issue was that the Fire Districts were asking for residential sprinkler systems that were designed for life safety and to give the occupants an additional 10-15 minutes to get out of the house safely. Trustee Schwartz asked if there was a monthly cost to monitor the system. Tony Ugaste stated there would be a fee for the monitoring, but not for the sprinkler system. The monitoring would take place through a regular fire alarm system. He stated if the system was not monitored, there was the possibility of the system being accidentally turned off and all the time and effort would be wasted. Manager Allison asked what the cost of monitoring was. Tony Ugaste stated approximately \$25 per month per building and the other cost would be for the backflow preventer which was approximately \$60. Trustee Schultz asked if there were a minimum number of units. Tony Ugaste stated any multifamily where one unit had an effect on another unit. Trustee Marquardt asked about zone panels. Chief Spiegel stated there would be a signaling device that would locate the fire.

Chief Spiegel discussed lack of access to the Aspen and Route 60 development. Assistant Manager Kalmar stated the development on at the Planning and Zoning level and would be brought back before the Board. Chief Spiegel stated the fire sprinklers would be a solution to the access problem at this development. He stated they were wet systems in heated walls and depending on the construction style would recommend installation in garages and attics, in the warm areas.

Building Commissioner Gerth asked, in order to move forward in drafting the ordinances, to allow the Building Codes work and enforce what was in them, which makes it more uniform for the contractor and inspectors, and not have the local amendments, such as the 2-hour fire separation wall, which was different from other communities.

President Byrne stated there were some projects that would need to be grandfathered. Assistant Manager Kalmar stated there should be a clarification about access to Aspen Pointe and stated not having access as stated by Chief Spiegel was not the case. Access in the community was discussed.

Motion by Trustee Schwartz, second by Trustee Williams, to authorize staff to draft the appropriate ordinance to require additional newly constructed multifamily dwelling building (apartments, townhouses, condominiums, and duplex-style residential buildings) to include a fire protection sprinkler system.

AYES: 6 – Koch, Marquardt, Schultz, Schwartz, Williams, Hebda

NAYS: 0 - None

ABSENT: 0 – None

Motion declared carried.

**4. CONSIDERATION OF REQUEST FROM RITACCA LASER CENTER, LTD. TO OBTAIN A LIQUOR LICENSE THAT WOULD ALLOW PATIENTS TO CONSUME WINE AND CHAMPAGNE IN CONJUNCTION WITH SCHEDULED VISITS AND PROGRAMS.**

Dr. Daniel Ritacca stated that his facility performed many functions, such as plastic surgery and hand care. They also held seminars two to three times per week to small groups that were interested in cosmetic surgery, public education, etc. He stated food was served at the seminars and they would like to serve wine. President Byrne asked if their request was to serve wine to people who came to get knowledge of their services or people coming for their service. Dr. Ritacca stated they would serve wine during foot and hand care services. He stated patients can be served wine at Condell Hospital with a prescription of a doctor. At his facility, patients would be served wine only with his consent.

Trustee Hebda stated she could not allow alcohol to be served on the premises. She stated his services were appreciated, but felt approval would open too many avenues for other requests.

Dawn Davidson asked about wine being served primarily at Open Houses, where five or six people came to meet the staff and physicians and wine would be served with appetizers. Trustee Hebda stated she felt the Open House would have to be without alcohol. Trustee Koch agreed that it opened a Pandora's box in terms of other businesses in the community. Serving alcohol at businesses was discussed. President Byrne asked if there was a way to limit the license. Attorney Citron stated a new license would need to be created; there was not a category currently. The requirements for a license were discussed, such as BASSET training, dram shop insurance, etc.

Trustee Schwartz stated she agreed with Trustees Koch and Hebda on the ramifications with granting this license, how it would be monitored, and the effect of alcohol on a patient considering surgery.

Trustee Marquardt asked if there would be a charge for the drink. Dr. Ritacca stated there would not. Trustee Marquardt stated he agreed with the other Trustees.

Trustee Schultz stated he needed more clarification on the law, how it was different from a resident serving a beer at his house. Attorney Citron stated his house was not open to the public. Attorney Citron stated an office party was a better example for comparison than a private residence. Office parties were one-time events, food provided by a caterer with a license, etc. as compared to events held on a regular basis and open to the public. President Byrne inquired about events held on a quarterly basis. Attorney Citron stated that would be comparable to special event licenses and need a licensed caterer. President Byrne asked about the number of events planned. Dr. Ritacca replied about once a month and inquired about using his medical license to prescribe wine. Attorney Citron replied he could use his license to prescribe wine, but he must be licensed to dispense it. Dr. Ritacca asked if dispensing could be possible with a licensed pharmacy on the premises. Attorney Citron stated the way the Village code and state statutes were drafted was that the general distribution of alcohol required a license. He stated that, if the Board wanted to create that class of license, they could do so.

Trustee Schultz asked if there were any other communities that offered this type of license.

Manager Allison stated would there be more likelihood to allow the use at Mario Tricocci rather than a medical establishment. President Byrne stated there were other services performed at his facility and he had mixed emotions on this issue.

Motion by Trustee Koch, second by Trustee Schwartz to approve a request from Ritacca Laser Center, Ltd. to obtain a liquor license that would allow patients to consume wine and champagne in conjunction with scheduled visits and programs.

AYES: 1 – Schultz

NAYS: 5 – Koch, Marquardt, Schwartz, Williams, Hebda

Motion declared failed.

**5. REVIEW AND DISCUSSION ON THE LEVEL OF OVERSIGHT EXPECTED OF THE VILLAGE BOARD REGARDING RESIDENTIAL PROPERTY OWNERS MAKING CHANGES TO THE EXTERIOR OF APPROVED BUILDING ELEVATIONS LOCATED WITHIN SEMI-CUSTOM HOME NEIGHBORHOODS.**

President Byrne asked what change was requested. Building Commission Gerth stated there was no change, but wanted clarification. He stated staff has had discussions about residents in various subdivision proposing changes in homes approved by the Board. Building Commission Gerth stated he was seeking acknowledgement from the Board regarding the staff's current practice of allowing residents to improve/alter the exterior of their approved model home without obtaining the Board's consent under certain conditions and approval for the current practice to continue. He presented photos of examples of homes with possible exterior changes. He stated some neighborhoods have architectural committees, some do not; in the neighborhoods that do, a letter from the architectural committee was requested.

Trustee Schultz asked how many changes would have gone to P&Z. Building Commissioner Gerth stated none, but could if the Board wanted to get that restrictive. Trustee Schultz asked who was making the call to approve the change. Building Commissioner Gerth stated it depends on who was reviewing the plans and could be a group decision or minor changes could be made by an individual. Trustee Schultz stated there should be a formalized process established within the Building Department to ensure more than one person makes the approval for a significant change.

Trustee Williams asked why this was being presented now. Building Commissioner Gerth stated because the Village was reaching the completion in subdivisions, such as Oakmont and Muirfield in Gregg's Landing, where the Building Department was starting to receive exterior change requests and because staff does review plans closely, these questions have arose.

Trustee Koch stated that the changes would not require a variance. Building Commissioner Gerth stated he was correct.

Don Kathan, President, Gregg's Landing North Homeowners' Association, stated that they did have an architectural review committee for these types of changes and the homeowners have had a very critical eye with respect to aesthetics and community standards, not necessarily building structure or code violations, which was completely left up to the Village. He stated they do have a process that has been working well with the Building Department and they would like to keep that process in place.

President Byrne stated not all subdivisions have such active associations, particularly older, more established neighborhoods.

Trustee Williams stated she did not have a problem with what the staff has done so far. She did not want the Village to become the watchdog of an association. President Byrne stated regardless what was discussed by the association, the Village had final approval. Trustee Williams stated it was not the Village's job to make sure the residents go to

their association to get approval. Building Commissioner Gerth stated it happens automatically, when the Village processes the application, the association's president was notified.

Trustee Schultz stated he would like to see the staff come back with their formalized process.

Assistant Manager Kalmar stated that each of the pods within Gregg's Landing was approved with a development permit, within that permit there were approved elevations and deviations within those elevations, he suggested because those permits were adopted by ordinance that the staff would come back to the Board annually with the list of addresses with changes that have been made and amend the ordinances by attaching the changes to the development permits. So that while the staff works through their review, there was a way to formalize those changes. Further, as Building Commission Gerth indicated, if there were changes that were significant deviations from the approved elevations, they would come back to the Village Board for approval and the ordinance would be amended at that time.

President Byrne thanked the staff for their work on this.

#### **6. NPDES - NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.**

Public Works Director Laudenslager stated several years ago the federal EPA said they were going to regulate stormwater and delegated the task to the state EPAs and the state EPA delegated the task to the local agencies, referred to as the Municipal Separate Storm Sewer System (MS4). Each year, the Village pays a \$1,000 permit fee to the State of Illinois. The Village has been performing many of the requirements, which include education, monitoring, and operation of the storm sewer system, before this process was put in place. Several other components include public education, making presentations, household chemical pick up, attending annual meetings and training sessions, holding a public meeting for annual review. As part of Phase II, the Village would monitor illicit discharge and staff would be looking at our current ordinances along with the County's SMC draft ordinance to incorporate both together. He discussed past violations and clean up. Since the Village adopted the Watershed Development Ordinance, many best management practices were incorporated into construction site monitoring. He stated the Public Works Department was updating the sewer atlases, training employees on proper procedures, as time permits, doing more televising, and using more contractors for cleaning catch basins – all of which are components of the operation of the storm sewer system. He discussed the use of roadway salt, how much salt to use, and how to store it. He stated the Community Development Department was working with the mall and Hawthorn Grade School District, who has their own storage facilities, to store salt properly and use minimally. The Village was working to better monitor and handle blockages on the Seavey Ditch. He discussed work that had been done previously. He stated the final item was to report all the construction projects in the year. Last year's projects were small and have been reported. He discussed the Fairway Drive Project.

President Byrne thanked Public Works Director Laudenslager and his staff.

#### **7. VHAC CONCESSION & OPERATING AGREEMENT-VERNON HILLS COUGARS YOUTH ATHLETIC ASSOCIATION (VHCYAA).**

President Byrne asked if this agreement was an item for the Liaison Committee. Manager Allison stated he wanted to advise the Board of the items enumerated in his memo. Manager Allison discussed his conversation with Mark Peterson, President of VHCYAA. President Byrne suggested scheduling a Liaison Committee meeting. Attorney Citron stated, because of the level of involvement of the Cougars' organization, there was a need to draft a comprehensive operating agreement, expanding the concession agreement. Manager Allison and Attorney Citron discussed the changing of the components of the agreement. Insurance requirements were discussed.

**ADJOURNMENT.**

Motion by Trustee Koch, second by Trustee Hebda to adjourn the Committee of the Whole to Closed Session for discussion of land acquisition-[Sec. 2(c)(5)] as allowed under the Open Meetings Act. Roll call vote:

AYES: 6 – Koch, Marquardt, Schultz, Schwartz, Williams, Hebda

NAYS: 0- None

ABSENT: 0- None

Motion declared carried.

Meeting adjourned at 9:55p.m.

---

Holly D. Udesky, Village Clerk

---

Roger L. Byrne, Village President