

November 1, 2010

The regular meeting of the Board of Trustees of the Village of Deerfield was called to order by Mayor Rosenthal in the Council Chambers of the Village Hall on Monday November 1, 2010 at 7:30 p.m. The Clerk called the roll and announced that the following were:

Present: Harriet Rosenthal, Mayor
Robert Benton
Alan Farkas
Thomas Jester
Mary Oppenheim
William Seiden
Barbara Struthers

and that a quorum was present and in attendance. Also present were Village Attorney Peter Coblentz and Kent Street, Village Manager.

PLEDGE OF ALLEGIANCE

Members of Boy Scout Troop 50 led those in attendance in reciting the Pledge of Allegiance. The scouts were from Caruso and Shepard Middle Schools and are working toward their communications merit badges.

PROCLAMATION

Steve Freed, 1217 Somerset Avenue, is a diabetes educator. He discussed World Diabetes Day, which is November 19th. People around the world will be promoting diabetes education by displaying blue lights. He would like the Village of Deerfield to promote diabetes awareness. He stated that 33% of people have diabetes or will get diabetes within the next 12 years. Mr. Freed believes education is very important in the prevention of diabetes. He stated that more than 62 million people have pre-diabetes. The best treatment is lifestyle and behavioral changes, including diet and exercise. For more information, visit www.diabetesincontrol.com. Mr. Freed recommended various activities that the Village could promote.

Mayor Rosenthal proclaimed November 19, 2010 as World Diabetes Day in Deerfield. Trustee Seiden made a motion to accept the proclamation. Trustee Oppenheim seconded the motion. The motion passed unanimously.

MINUTES OF PREVIOUS MEETING

Trustee Struthers made a motion to approve the minutes from the October 18, 2010 Board of Trustees meeting. Trustee Oppenheim seconded the motion. The motion passed unanimously.

BILLS AND PAYROLL

Trustee Seiden made a motion to approve the Bills and Payroll dated November 1, 2010. Trustee Farkas seconded the motion. Trustee Oppenheim asked about the impound fee invoice. Mr. Fialkowski explained that it is usually for stray animals and if reimbursed from animal owners where possible. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

PUBLIC COMMENT

There was no Public Comment.

REPORTS

There were no Reports.

CONSENT AGENDA

ORDINANCE 0-10-32 GRANTING A
SPECIAL USE TO PERMIT LIQUOR
SALES IN A DRUG STORE – 2R

An Ordinance granting a Special Use to permit liquor sales in a drug store. Second Reading.

Trustee Struthers understands the measures that are in place to prevent the sale of alcohol to minors, but asked if there was anything that could be done to prevent someone who is of legal age from giving alcohol to minors. She asked if there are cameras in place to see what is happening outside the store. Dan Perlin, Senior Attorney with Walgreens, stated there are no outdoor security cameras currently on premise. He said there are a number of security cameras inside the store. Those cameras do not have the ability to police what happens outside the store, however. Mr. Perlin ensured Walgreens would enforce their policy of checking identification and not selling to minors. He will get back to the Board with any other measures that could be taken.

Trustee Struthers asked if the stores sell caffeinated, alcoholic beverages. She stated there were reports that people died from these beverages. Trustee Oppenheim added those beverages have high alcohol content and a lot of caffeine. Mr. Perlin explained that if the alcohol content is higher than beer or wine, it would not be allowed to be sold according to the permit. He noted that it is not Walgreens' intention to sell anything with higher alcohol limits.

Trustee Struthers made a motion to grant a Special Use to permit liquor sales in a drug store. Trustee Oppenheim seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

ORDINANCE 0-10-33 INCREASING
THE NUMBER OF CLASS B LIQUOR
LICENSES FROM 0 TO 1 – 2R

On Ordinance increasing the number of Class B liquor licenses from 0 to 1. Second Reading.

Mayor Rosenthal asked how Walgreens is proceeding with the window signage. Mr. Perlin explained that he sent an email to Mr. Street stating that he put pressure on the people at Walgreens to make this a priority. He was told they have already started working on it. Mr. Perlin explained they would inform the Village when the project is complete. Mayor Rosenthal suggested voting on the ordinance but stated she would not issue the liquor license until the Village is assured the window signage is complete.

Trustee Farkas made a motion to adopt the ordinance increasing the number of Class B liquor licenses from zero to one. Trustee Oppenheim seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

ORDINANCE O-10-34 APROVING A SPECIAL USE TO PERMIT THE ESTABLISHMENT OF A RESTAURANT AT 483 LAKE COOK ROAD FOR RISTORANTE ABRUZZO IN DEER PARK PLAZA – 1R

An ordinance approving a special use to permit the establishment of a restaurant at 483 Lake Cook Road for Ristorante Abruzzo in Deer Park Plaza.

Trustee Seiden made a motion to waive the First Reading of the ordinance. Trustee Benton seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

Trustee Struthers made a motion to adopt the ordinance approving a special use to permit the establishment of a restaurant at 483 Lake Cook Road for Ristorante Abruzzo in Deer Park Plaza. Trustee Farkas seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

AUTHORIZATION TO SIGN INTERGOVERNMENTAL AGREEMENT FOR THE USE AND OPERATION OF THE HIGHLAND PARK PUBLIC ACCESS CENTER

Trustee Benton explained that Comcast and the Cable and Telecommunications Commission negotiated a fair and equitable agreement on how telecommunications, including public access, should work in Deerfield. AT&T came before the Village and asked permission to bring UVERSE to the Village. There were a number of questions asked regarding franchise fees, cable boxes, public access, etc. AT&T did not want to provide the public access. They withdrew from Deerfield and seven other communities and hired a lobbyist to draft a bill which subsequently was passed by the State legislature that gave control of the cable network to the State. When they were asked if they would air the public access, they said they would if Comcast provided it to them free of charge. Trustee Benton stated he would vote against this petition as a protest, because he believes the residents of Deerfield have the right to view the public access television.

Mayor Rosenthal asked about the cost. Mr. Street responded that the cost to connect to UVERSE is about \$2,500. Trustee Benton added that it includes the operation of the studio, as well as the technicians.

Jenny Maltas, Assistant to the Village Manager, explained there is an annual fee of \$3,000 per channel, plus the studio cost incurred in spring 2009. The third cost is the fee to upgrade the studio. Trustee Oppenheim stated the costs were shared by Highland Park. Mr. Street explained that through the State franchise with AT&T, the Village gets \$1,800 per quarter to offset the costs. Mayor Rosenthal expressed concern about maintaining three stations and asked how they are being used. Ms. Maltas explained that two stations are under-utilized. The Village will meet with the Park District and School Districts to determine whether the stations should be maintained. She noted that if they are let go, the Village would lose those stations. Mr. Street added that when cable was installed, the channels were dedicated for education. From a Village standpoint, Channel 10 is an asset. The County Board has Channel 19, which is also public access. The other local channels, 17 and 18, are to provide access for other community and local government entities. Mr. Street noted that many organizations broadcast on the Internet and they would look into that for the future. Trustee Benton stated that the original plan allowed for public access, education and government. He noted that schools and libraries do broadcast, but for the most part, those channels are used as billboards, with information typed in. Trustee Farkas asked whether those who have Direct TV or Dish Network would be able to see the broadcasts. Ms. Maltas explained that the dish companies are not regulated by the government, but web streaming would be an option.

Trustee Jester made a motion to authorize the Intergovernmental Agreement for the use and operation of the Highland Park Public Access Center. Trustee Oppenheim seconded the motion. The motion passed by the following vote:

AYES: Farkas, Jester, Oppenheim, Seiden, Struthers (5)

NAYS: Benton (1)

AWARD OF CONTRACT FOR ENERGY EFFICIENCY IMPROVEMENTS Ms. Maltas reported that at the September 20th Board of Trustees meeting, the Trustees gave authorization for Mayor Rosenthal to sign a grant award sub-contract for energy efficiency improvements. Staff is recommending waiving the competitive bidding process and awarding the sub-contract to Dellinger Electric in an amount not to exceed \$58,399. Dellinger provided assessment information used to complete the grant application. The Energy Efficiency and Conservation Block grant and the Department of Commerce and Economic Opportunity Energy Efficiency Grant Program will pay for 100% of the cost associated with the improvements.

Trustee Oppenheim made a motion to waive the competitive bidding process and award the sub-contract for energy efficiency improvements to Dellinger Electric in an amount not to exceed \$58,399. Trustee Struthers seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

AUTHORIZATION TO AWARD BID FOR CONSTRUCTION OF WASTEWATER RECLAMATION FACILITY

Director of Public Works and Engineering Barbara Little reported that the Wastewater Reclamation Facility was established in 1954 and expanded in 1960, 1974 and 1975. The equipment and infrastructure have exceeded their design life. The

Village investigated regional and local alternatives for treatment. After deciding it was in the best interests of the Village to retain local treatment and control, staff and advisors prepared the design basis study and subsequent construction documents. The project was advertised, with a mandatory pre-bid meeting on September 7, 2010. Five bids were received and opened on September 30. The low bid was from Joseph J. Henderson and Son, in the amount of \$29,450,000. Due to the complexity of the project, staff and Strand Associates also recommend approving a 3% contingency, to be allotted upon approval by Strand Associates, the Director of Public Works and Engineering and the Village Manager for unforeseen circumstances.

Mayor Rosenthal explained the Village started looking at redoing the plant in 2004. The Village looked at privatization and regionalization as well as keeping the plant. By unanimous Board decision, this was the best decision for the Village. Mayor Rosenthal expressed concern about the contingency and asked whether 3% is a standard number. Ms. Little explained that the contingency is what the IEPA recommends for projects funded through their offices. Strand reports that on projects of this size, they experience change orders in the amount of 0.4% to 2.5%. Other communities utilized 3% contingencies and were well served.

Trustee Seiden explained that although the bid came in higher than expected, he is concerned about the 3% contingency. If it is a contingency, the 3% would be the maximum and anything above 3% would be absorbed by the contractor. Trustee Oppenheim asked whether the contingency would be a fund from which expenses would be drawn. She stated there is a difference between the Village allowing a fund for contingencies and awarding 3% to the contractor upfront. Mr. Street explained the Village's intent is to pursue the low bid and not automatically give the contractor 3% more.

Verne Witthuhn, Strand Associates, Inc., explained that any expenditure would start with discovery. It would then go to Strand for review of the situation and ask the contractor to provide a price proposal. Strand would review the price proposal and determine if it was appropriate. It would be a regimented procedure. Once agreement is reached, it would be approved by Strand, Ms. Little and Mr. Street.

Trustee Farkas explained that the process described is the change order process. The Village could set aside 3%, which would be managed. If the Village does not want to make a change, Strand would have to come before the Board. Instead of jumping to 3%, Trustee Farkas suggested approving a lesser amount. Mr. Witthuhn said a lesser amount would be acceptable. Mayor Rosenthal explained that the Board would be informed when the lesser amount was being reached.

Trustee Seiden asked whether 3% is a maximum. Mr. Witthuhn explained the IEPA is mandating a ceiling. Trustee Farkas suggested making a modification to approve a 1% contingency and, if it gets close, the contractor would come back before the Board. Mr. Street explained it is staff's intention to report back to the Board. The Village Manager can currently approve emergency provisions up to \$10,000. Trustee Farkas noted it would be very rare that a \$100,000 decision would need to be made instantly. Trustee Jester believes the question is whether or not to approve change orders. Mr. Street could come back with a formal process for change orders. Trustee Jester would like the process to be completely contained within the ordinance. Mr. Street stated the Board could have a special meeting for larger change orders, if necessary. Trustee Seiden is not in favor of a contingency. He would like to have a change order approval process for change orders over \$10,000. Trustee Oppenheim does

not believe 3% is unreasonable for such a large project. She does not want to award a 3% contingency with the contract, however.

Trustee Oppenheim made a motion to award the contract for construction of the Wastewater Reclamation Facility to Joseph J. Henderson and Son in an amount not to exceed \$29,450,000.

Trustee Farkas seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

AUTHORIZATION TO AWARD

CONTRACT FOR WRF REPLACEMENT

PROJECT GEOTECHNICAL

ENGINEERING SERVICES

Assistant Director of Public Works, Brad Fink, reported that staff worked with Strand Associates on the RFP. They propose testing the soil, asphalt and concrete. Three proposals were received. Staff believes Soil and Materials Consultants, Inc. gave the

best price and service. The Village used them last year to assist with geotechnical services for design. He recommends that the Board award a contract for Wastewater Reclamation Facility modification geotechnical engineering services to Soil and Material Consultants, Inc. on an as needed basis not to exceed \$50,000.

Trustee Farkas asked if the not to exceed amount was for the life of the project. Trustee Oppenheim questioned why the Village is contracting with an outside vendor. Mr. Street responded the Village wants independent confirmation. Trustee Seiden made a motion to award the contract for WRF replacement project geotechnical engineering services to Soil and Materials Consultants, Inc. in an amount not to exceed \$50,000. Trustee Benton seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

AUTHORIZATION TO REMEDIATE

ASBESTOS CONTAINING MATERIALS

AT THE WASTEWATER

RECLAMATION FACILITY

Mr. Fink reported that Midwest Environmental Consulting Services performed comprehensive asbestos testing and found asbestos containing materials in the transit lab hood, exterior door caulking and various roofing materials. Prior to any

other construction, asbestos abatement needs to take place by an Illinois Department of Health licensed abatement contractor. On September 30, four quotes were received. The lowest quote was from Valor Technologies. He requested waiving the formal bidding process and authorizing the removal of asbestos containing materials at the Wastewater Reclamation Facility to Valor Technologies, Inc. in an amount not to exceed \$17,310.

Trustee Farkas made a motion to waive the formal bidding process and authorize the removal of asbestos containing materials at the Wastewater Reclamation Facility to Valor Technologies, Inc. in an amount not to exceed \$17,310. Trustee Jester seconded the motion. Trustee Jester asked whether the materials would be removed and disposed of. Mr. Fink said the materials would be disposed of at a state-licensed facility. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

ORDINANCE O-10-35 RE: ISSUANCE
OF 2010 SERIES GENERAL
OBLIGATION BONDS – 1R

Mr. Fialkowski stated the Village went out to bid for \$12.5 million in general obligation bonds. Build America bonds are taxable bonds issued in the Village's name. Buyers of these bonds receive interest, which is considered taxable income. They ask for a larger interest rate than non-taxable bonds. The Village would pay the higher interest rate but get 35% of the interest back in the form of credits.

Al Ambrose of Northern Trust put together the bidding process and received three bids. He explained the winning bid was from Robert W. Baird, with the true interest cost of 4.4853%. This is a taxable rate, giving an overall borrowing cost of 2.955% with a 35% federal subsidy for 20 years.

Trustee Farkas asked if the Village was considering the amount of time the payment would be outstanding before reimbursement. Mr. Ambrose explained that the reimbursement would be immediate. Mayor Rosenthal explained the Village pays and gets credit at the same time. Trustee Seiden asked if the Village looked at the municipal rate. Mr. Ambrose explained they set up the bond both ways and did an analysis. They looked at the market to determine the most efficient way to issue the debt. Mr. Fialkowski explained the Village has to pay the entire interest cost to the servicer before the money comes back from the federal government. He presented the levy schedule and explained that borrowing consists of two parts. The first is \$5 million, half of which has already been spent. The second is \$7.5 million, which will be used as seed money for the Wastewater Reclamation Facility. He noted that the cash outlay would be in the 2011 budget. It was confirmed that no trustees do business with Robert Baird. Mr. Fialkowski noted the Village bond rating was reviewed last week and the Village received a Aaa rating.

Trustee Seiden made a motion to waive the first reading of the ordinance. Trustee Oppenheim seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

Trustee Oppenheim made a motion to approve the Ordinance. Trustee Struthers seconded the motion. The motion passed by the following vote:

AYES: Benton, Farkas, Jester, Oppenheim, Seiden, Struthers (6)

NAYS: None (0)

DISCUSSION

DEERFIELD.PATCH.COM

Mayor Rosenthal introduced Natalie Kaplan, a website reporter who has just launched a new Patch website. The website will feature local news and is owned and funded by AOL. The website was launched this morning.

CONDOLENCES

Trustee Struthers noted that long-time resident Joe

HALLOWEEN

Boyd recently passed away and that he will be missed. Mr. Street stated the Village had an incident free Halloween.

2010 VOTE

She urged residents to vote.

Mayor Rosenthal reminded residents that the polls will be open tomorrow from 6:00 a.m. until 7:00 p.m.

ADJOURNMENT

There being no further business or discussion, the meeting was adjourned at 9:04 p.m..

APPROVED:

Mayor

ATTEST:

Village Clerk