

**MINUTES OF A REGULAR MEETING
MAYOR AND BOARD OF TRUSTEES
FOR THE VILLAGE OF FORSYTH, IL**

**Held at the Village Hall
July 6, 2010**

Call to Order

Mayor Harold Gilbert called the meeting to order at 6:30 p.m.

Pledge of Allegiance

Roll Call

Upon call of the roll, the following Trustees were physically present:

Johnson, Morr, Hubbard, Reed, Rasho.

Absent: Allsup.

Also Physically Present

Darrell Woolums, Jean Campbell, Chuck Hunsinger, Larry Coloni, Rhonda Stewart, Heather Kimmons, Charlyn Brautigam, Kathy Mizer, Weston and Joan Brohard, Deputy Rodgers, Sgt. Gessford, Jim and Mary Spencer, Shrikant Khandekar, Suzy Delvan, Therese Angelo, Matt Reineke, Susan Martin, Dick Dubs.

Adoption of Consent Agenda

*** Consideration of items listed on the Consent Agenda under the omnibus vote designation:*

1. Approval of Minutes of the Regular Village Board meeting held June 21, 2010.
2. Approval of Bills presented for payment, July 6, 2010. ***Invoices are always available for review upon request.*
3. Approval of Ordinance No. 794, An Ordinance Approving Zoning Variance for Property at 1181 Greenbrier Blvd.
4. Approval of Ordinance No. 795, An Ordinance Amending the Forsyth Zoning Map for Old Village Hall.

Trustee Hubbard moved, and Trustee Johnson seconded, to approve the Consent Agenda, as presented. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.

Nays: 0—None.

Absent: 1—Allsup.

Motion declared carried by omnibus vote.

Public Comment

Wes Brohard who lives at 211 E. Ruehl St. was in attendance to address the Board on behalf of the Forsyth Senior group. He referred to a request he made last month on behalf of the group asking the Board to consider providing some financial help to the seniors to assist with expenses associated with planned activities. Wes reported that as of tonight's meeting, he has not received a response concerning that request.

Wes also mentioned that since his request to the Village, the group has received a \$200 donation to help with group activities and events. He reported that he talked with the Administrator about how to handle any donations the group might receive, but noted that the matter has not been resolved. Ms. Kimmons suggested Wes or someone from the group set up a Not For Profit bank account to deposit any funds given to group. Wes reported that after looking into this idea, he found it would not work as he would have to claim the money donated as personal income. He asked for guidance from the Board on how to proceed.

Mayor Gilbert replied that Staff is reviewing other options on how donations to the group should be handled. He asked the Village Administrator to look into this matter further and respond to Mr. Brohard.

Wes also asked the Board if anything was going to be done concerning burning in the Village. Mayor Gilbert replied that burning of landscape waste is allowed, but noted that the Village does have an ordinance to regulate it.

LAW ENFORCEMENT—

Deputy Marcus Rodgers and Sgt. Gessford were in attendance to comment on recent activity in the Village officers have responded to. He mentioned that June has been a very busy month. Deputy Rodgers mentioned that officers have noticed a number of motorists driving around the barricades on County Highway 20 to avoid driving through the subdivision. Officers continue to adjust the barricades as the road is closed for bridge repairs, but asked that residents be reminded of the road closure.

Sgt. Gessford asked that Board to clarify or provide guidance concerning enforcement of the ordinance concerning the use of fireworks in the Village. There were no injuries reported on the 4th of July, but there were a lot of displays going off all over the Village. Mayor Gilbert asked Staff to review the existing ordinance and provide a recommendation to the Board to consider.

LEGAL—

Attorney Darrell Woolums provided a written report for the Board to review. He also asked that the proposed Ameren/IP License Agreement be placed on the next meeting agenda for review and discussion.

LIBRARY REPORT —

Forsyth Head Librarian Jean Campbell was in attendance and provided a written report for review. Jean reported that circulation for the month of June broke a circulation record of 7,054. That record was set in March 2009.

Trustee Hubbard questioned Jean's comments concerning the buckling carpet in the library. Jean explained in her report that the humidity in the building is causing a very serious problem with the carpet, but noted that it is not a persistent one.

Public Works Director Larry Coloni explained that the floor of the library is a smooth concrete surface and the carpet is glued to it. When the humidity rises, the carpet will buckle in different areas. Larry reported that the Village does have a company that comes out and makes repairs to the carpet as needed. He also mentioned that unless the surface of the floor is modified, this will be an ongoing problem.

Trustees suggested the carpet be looked at and maybe offer some suggestions on how to remedy the problem. Trustee Reed stated that the Library Committee will discuss this issue at its next meeting.

VILLAGE ADMINISTRATOR'S REPORT —

Village Administrator Heather Kimmons provided Trustees with a written report outlining items she has been working on or the status of ongoing projects in the Village. Any action items for the Board to consider have been listed under either 'Old Business' or New Business'.

OLD BUSINESS:

Greenbrier/Hickory Point Section 16 Drainage Problem

The Attorney reported that he has made contact with each of the owners of the farmland south of the Greenbrier Subdivision and west of Oakland concerning the drainage problem in that area. One of the owners has agreed to a meeting with Village officials, but has asked that the meeting be held after July 28. He suggested a meeting be scheduled to discuss the drainage problem and how the matter can be resolved.

Village Administrator Heather Kimmons recommended the Board direct Staff to proceed with scheduling this meeting after July 28, and that the Engineer, Attorney, and neighboring property owners – Dr. Schrodts and Mr. Haskell be invited, along with any other parties which Staff deems advisable. Trustees concurred.

2010 Street Improvement Program

Village Administrator Heather Kimmons mentioned that at the last regular meeting Staff was asked to evaluate the budget to determine if other budgeted items could be deferred to allow the four street improvement projects to proceed or if the Board should consider amending or adjusting its budget in order to finance the road work. Following a discussion with the Engineer and Public Works Director, Heather presented five options for the Board to consider using to pay for the street improvements. Staff agreed that if the work on these four streets is delayed, the condition of each one will only further deteriorate and more repairs will be needed next year. This will result in a higher cost to make the necessary repairs. Heather stated that in her opinion maintenance of the Village's infrastructure is important and recommended the Board proceed with the 2010 Street Improvement Projects in whole as was bid, but asked for direction on which option Trustees wanted to use to pay for the work.

Following a brief discussion Trustee Morr moved, and Trustee Rasha seconded, to proceed with the 2010 Street Improvements as was bid, award a contract to Dunn Company in the bid amount

of \$707,101.89 and authorize the Mayor to execute the contract; use the \$150,000 that was budgeted for the Diamond No. 4 Improvements, and the \$64,000 received from the sale of Old Village Hall to adequately fund these road improvements. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

NEW BUSINESS

Zoning Board of Appeals Report

o Variance for 1210 Raptor Lane

Chair Dick Dubs was in attendance to present the report on behalf of the Zoning Board of Appeals (ZBA). Dick explained that a public hearing was held prior to tonight's meeting to consider a petition for variance received from Jim and Mary Spencer concerning the property located at 1210 Raptor Lane. The Spencer's are planning to build a new home on this lot.

Dick reported that the Spencer's have asked to raise the foundation elevation 12" from the required 42" maximum allowed stated in the Owner's Declaration for this subdivision. The purpose for the request is to address the drainage for the new home. The drainage plan for the Grayhawk Subdivision requires the drainage to flow from the back of the property to the street. Mr. Spencer states that the intent of his request is not to change this requirement. Dick mentioned that he does not believe the ZBA has ever received a request to change the foundation elevation for any lot. Following a review of the request, Dick reported that the ZBA voted unanimously to deny the request.

Engineer Chuck Hunsinger cautioned the Board about changing the grading for any lot. Any modification to a particular property may impact neighboring lots.

Mr. and Mrs. Spencer were both in attendance to comment on their petition. Mr. Spencer described Lot 38 as a property that slopes from back to front and from east to west. He mentioned that the house to the east of the proposed home appears higher than what is allowed for Lot 38. The maximum foundation elevation of 42" will result in the water flowing from the back of the lot directly into the back of the new home. There will be nothing to prohibit the water from ponding in the back yard or possibly flooding his basement. Mr. Spencer explained that he is asking for a 6" variance to allow him to contour the yard to address his drainage concerns, and another 6" to provide a small space between the bottom of the house siding and the yard to allow room to mow the grass in this area. Lot 38 slopes more than most of the lots in the subdivision and the alternative of not approving the variance is not a favorable one.

Trustees discussed this request at length. Trustee Rasho moved, and Trustee Hubbard moved to accept the recommendation from the Zoning Board of Appeals, and deny the variance request to increase the foundation elevation.

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.

Absent: 1—Allsup.

Motion declared carried and the variance was denied.

Trustee Morr moved, and Trustee Rasho seconded, to allow the property owner of Lot 38 of the Grayhawk Subdivision, commonly known as 1210 Raptor Lane, to raise his foundation elevation by six inches to help with the drainage for the new home. Section 4A of Part A of the Grayhawk Subdivision Owner's Declaration. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.

Nays: 0—None.

Absent: 1—Allsup.

Motion declared carried and the variance was granted.

○ *Special Use Permit - Sears*

Kathy explained that three public hearings to consider three Special Use Permits were held on June 24, 2010. The first petition received was from the Sears Store located in Hickory Point Mall. Store management has requested permission to continue displaying seasonal merchandise along the sidewalk outside of the store from approximately March through October of each year. Merchandise includes lawn mowers, tractors, and other seasonal items that are typical of the merchandise on display at other Sears's stores. Kathy reported that the Plan Commission voted to recommend approval of the Special Use Permit, as presented, which allows store management to display lawn and garden seasonal merchandise from March through October of each year as long as Sears remains at this location, and the display is kept in an orderly fashion.

Trustee Hubbard moved, and Trustee Rasho seconded, to grant the Special Use Permit for the Sears Store, as recommended by the Plan Commission. Granting of the request allows store management to display lawn and garden seasonal merchandise from March through October of each year as long as Sears remains open at this location and the display is kept in an orderly fashion. Section 5.5 B (11). Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.

Nays: 0—None.

Absent: 1—Allsup.

Motion declared carried.

○ *Special Use Permit – Mac's Circle K*

Kathy explained that the second public hearing was held to consider a request from the Mac's Circle K Convenience Store located at 1315 Koester Drive. Store managements have asked for approval to continue displaying its ice machine outside of the store and reported that it has been on display for a very long time. Kathy mentioned that a Special Use Permit was granted in 2004 for the display of propane at this location. Kathy reported that the Plan Commission voted to recommend approval of the request.

Trustee Rasho moved, and Trustee Hubbard seconded, to grant the Special Use Permit for Mac's Circle K Convenience Store. Granting of the request allows store management to display an ice machine outside of the store. Section 5.5 B (11). Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

○ *Special Use Permit – Menards*

Kathy explained that the third public hearing was held to consider a request from the Menards Store located at 533 Market Drive. Store officials have asked for approval to continue displaying propane gas and landscaping block outside of the store. Both displays are attached to the store building. Kathy reported that the Plan Commission voted to recommend approval of the request. Trustee Johnson moved, and Trustee Rasho seconded, to grant the Special Use Permit for the Menards Store. Granting of the request allows store management to display and sell landscaping block and propane gas from containers attached to the building. Section 5.5 B (11). Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

Plan Commission Appointment – Richard Maddox

Trustee Johnson moved, and Trustee Hubbard seconded, to appoint Richard Maddox to serve on the Plan Commission as an alternate member. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

Tree Board Appointment – Jeff Aubry

Trustee Reed moved, and Trustee Rasho seconded, to appoint Jeff Aubry to serve on the Tree Board to replace Marie Wood who has resigned. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

Activities and Events Appointment – Kathy Zimmerman and Sue Hall

Trustee Johnson moved, and Trustee Rasho seconded to appoint Kathy Zimmerman and Sue Hall to serve on the Activities and Events Committee replacing Kathy Parrish and Gayle Bruckner. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.

Absent: 1—Allsup.
Motion declared carried.

Expansion of Activities and Events Committee

Village Administrator Heather Kimmons explained that Village policy has set the guidelines for each of the six advisory committees to be comprised of six Forsyth residents plus one Trustee. Based upon her attendance at and participation at this year's Forsyth Family Fest, Heather suggested the Board consider expansion of the Activities and Events Committee to eight members. She mentioned that she has discussed this idea with Chair Trustee Marilyn Johnson, and noted that Marilyn does support the change. Trustee Johnson moved, and Trustee Reed seconded, to expand the Activities and Events Committee to eight (8) regular members and one Trustee to serve as Chair. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

Approval of Contract for Re-codification of Code of Ordinances

Village Administrator Heather Kimmons provided Trustees with a brief background on this item. In addition she referred to pages page from the March 1, 2010 regular meeting minutes that were included in the meeting packets for review. Heather recommended the Board authorize Staff to execute an agreement with American Legal to re-codify the Village's Code of Ordinances. She mentioned that this is not the Zoning Ordinance which has been discussed, but is simply an update of the code. The Zoning Ordinance is only mentioned by reference. Trustee Rasho moved, and Trustee Hubbard seconded, to authorize Staff to execute a supplemental service agreement with American Legal Publish Corporation for updating the Village Code of Ordinances. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

Purchase of Lawnmower

Public Works Director provided Trustees with information concerning the purchase of a new lawnmower to replace one that has been budgeted for replacement. Village Administrator Heather Kimmons recommended the Board approve the purchase of the Jacobsen mower at a cost of \$32,505.72. The cost is approximately \$9,500 under the budgeted amount. Trustee Rasho moved, and Trustee Morr seconded, to approve the purchase of the Jacobsen lawnmower at a cost of \$32,505.72. Upon a call of the roll, the vote was:

Yeas: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Nays: 0—None.
Absent: 1—Allsup.
Motion declared carried.

Contract to Purchase Energy

Village Administrator Heather Kimmons asked that this item be tabled until the next regular meeting to allow a little more time to review the four options submitted and to ensure that any recommendation presented to the Board in her opinion, is the best one for the Village. Trustees agreed and Mayor Gilbert asked that this item be placed on the next regular meeting agenda.

Adjustment to Sewer Billing, 909 Stevens Creek Circle

Mayor Gilbert explained that this item was placed on tonight's agenda because Dr. Khandekar has asked that a formal vote be taken on his adjustment request. He explained that when Dr. Khandekar made his presentation to the Board in April, the comments were made during the "Public Comment" portion of the meeting and not listed on the agenda for action. Since that time Dr. Khandekar has not asked for this item to be listed on any other agendas. Mayor Gilbert recognized Dr. Khandekar who was in attendance at tonight's meeting and asked that he address the Board concerning this issue.

Dr. Khandekar read the following statement to the Board and asked that it be included for the record.

"July 6, 2010

Village of Forsyth Trustees and Mayor of Forsyth,

On April 19, 2010, I appeared and requested a credit for the sewer portion of my water bill. As my case has finally appeared on the formal agenda, I am giving pertinent details one more time in order that you are fully informed.

In March 2010, I received a water bill which was over \$360 compared to my normal monthly bills of \$20 average. My first reaction was the water meter must have malfunctioned. Village's Public works director Mr. Coloni came to my home and checked the meter. After reviewing the installation of the sump pump, he asserted that the sump pump must have failed, and the village water was used to flush the sump well. In spite of the set up, I did have some water damage. Mr. Coloni also felt that since the water used did not go in to the sanitary sewer, I should get credit for the sewer portion of the bill. He called the village hall from my home and spoke with Ms. Rhonda Stewart and asked the village clerk to consider offering me credit.

Ms. Kathy Mizer, did not accept Larry Coloni's assertion and refused to offer me credit. I approached the Mayor and after insisting for a written response, he wrote me on March 23, 2010. In his letter, he states ' I researched the village code of ordinances for "forgiveness" regarding sewer consumption that does not go in to the sanitary sewer system, and could not find a specific ordinance that addresses this issue". The mayor offered me an option to address the situation to the village board of trustees which I did on April 19, 2010. At the end of my presentation, the mayor did not allow the trustees to "formally vote" on my issue. As of today, I do not know the village ode or ordinance under which the mayor presented a formal vote from the trustees on my issue.

More than a month later, I received a response from the village administrator as I further pursued the issue. In her letter, of May 28, 2010, the village administrator states "the Board

could take no formal action on the matter at that time”. As mentioned before, why the board could not take any formal action at that time is beyond my understanding. The village administrator further states “However, it is my understanding that after listening to your comments, the Board came to an informal consensus that the prevailing village policies and ordinances in place should be followed in the instance”. If the village administrator’s statement is true then, I am absolutely appalled that after making a formal presentation how the trustees could come to an informal consensus and until May 28, 2009, why I was not communicated of that consensus.

On July 1, I asked the Mayor several questions under the Freedom of Information Act or FOIA. From July 2nd till July 4th, I was out of town and up on my return, I found an envelope stuck between my storm door and home door. The envelope was from the village and inside was an agenda for the Board meeting for the July 6, 2010. The item on the agenda is to consider the sewer credit for 909 Stevens Creek Circle which is my home. The handwritten note states “Board will vote on whether or not to grant you the requested adjustment. You may attend and make your argument again if you’d like”. Since my first presentation, four regular village board meetings have taken place. In none of the meetings my issue was formally put on the agenda. I am very sure that my demanding the information under the FOIA and my issue appearing on the formal agenda today has a definite connection.

Village ordinance of Section 50.099 provides a regulation; however, it does not allow any exceptions. Mr. Coloni has told me several times, that in the past he has made recommendations to offer credits to other village residents. Why Mr. Coloni’s recommendation was not accepted in my situation is beyond me. I have been trying to get a “statement of facts” signed and notarized from Mr. Coloni. However, Mr. Coloni has written e-mails to me indicating that the village administrator has advised him not to cooperate with me.

I hope that you will consider offering me credit for the sewer portion by formally voting on this issue, I am requesting that this written document be made part of the meeting details for the general public’s view.

This concludes my presentation.

Letter was signed by Shrikand Khandekar, and dated July 6,2010”

Trustees discussed this matter briefly. Trustee Morr moved, and Trustee Rasho seconded, to grant a credit in the amount of \$134.80 for the sewer portion of Dr. Khandekar’s utility bill dated Marcy 1, 2010. Upon a call of the roll, the vote was:

Yeas: 0—None.
Nays: 5—Johnson, Morr, Hubbard, Reed, Rasho.
Absent: 1—Allsup.
Motion declared failed, the request was denied.

Dr. Khandekar referred to a FOIA request dated July 1, 2010 that he submitted to the Village Administrator and stated that he would await a prompt response.

Village Administrator Heather Kimmons responded by noting that the Freedom of Information Act (FOIA) does not require the Village to answer questions or provide opinion. The Act only requires that documents or records be provided in response to a request. Heather stated that she would be sending Dr. Khandekar a written response concerning his FOIA request as is required by law.

Adjournment

Trustee Rasho moved, and Trustee Hubbard seconded, that the meeting be adjourned. The meeting was adjourned at 7:58 p.m. by voice vote.

By: _____
Village Clerk