

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

**Held at the Village Hall
December 20, 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:

Rasho, Allsup, Morr, Johnson, Hubbard, Reed.

Absent: None.

Also Physically Present

Charlyn Brautigam, Linn Summers, Kermit Stokes, Larry Coloni, Scott Garwood, Rhonda Stewart, Darrell Woolums, Chuck Hunsinger, Heather Kimmons, Kathy Mizer, Deputy Rodgers, Kim Nelson, Kim Amsaalem, David and Kathy Cuttill.

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 December 6, 2010.
2. Approval of Bill presented for payment, December 20, 2010. ***Invoices are always available for review upon request.*
3. Approval of Summary Treasury Report, November 20, 2010.

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

Yeas: 6—Rasho, Allsup, Morr, Johnson, Hubbard, Reed.

Nays: 0—None.

Absent: 0—None.

Motion declared carried by omnibus vote.

Public Comment

Kim Nelson and Kim Amsalem were in attendance to address the Board on behalf of the Economic Development Committee and the Chili Cookoff Subcommittee. They brought Trustees a chili sample to encourage each one to participate in this year's event, which is scheduled for January 15, 2011 at the Hickory Point Mall. Trustees were invited to volunteer to be a Celebrity Cook or if not interested in cooking, volunteer to help out as a judge. Judges are needed for both the International Chili competition, as well as for the Celebrity Cooks. Kim Nelson reported that 37 local celebrities from the area took part in the cookoff, and approximately 34 international cooks participated. Seven thousand dollars was raised last year, which was divided between Catholic Charities and The Salvation Army. Kim Nelson mentioned that international cooks came from as far away as Texas and Connecticut. Forsyth benefited from the cooks by staying overnight in some of the hotels in the Village. Homewood Suites not only

provided a special nightly room rate for the cooks, but also hosted a reception following the cookoff for everyone involved. Kim Nelson encouraged Trustees to come out and help support this year's event, which will be the 6th annual Great Forsyth Regional Chili and Salsa Competition!

ADMINISTRATION REPORT

LAW ENFORCEMENT—

- Deputy Rodgers was present at the meeting to comment on recent activity in the Village officers have responded to. Items mentioned include:

- Officers continue seeing an increase in retail thefts in the Mall. Deputy Rodgers reported that this increase is expected with the holidays, but having the presence of officers in the Mall continues to be helpful for the different stores.

- Deputy Scheibly has been assigned to serve as the second shift supervisor. Other assignments are expected in the next couple of months.

- Only two accidents have been reported at the intersection of US Rt 51 and Barnett Avenue within the last few weeks. No significant injuries resulted. Deputy Rodgers reported that in his opinion, the Village has been very lucky in this respect with the increase in traffic around the Mall.

ADMINISTRATIVE REPORTS —

Village Administrator Heather Kimmons mentioned that in addition to her report, Trustees have been provided with written reports from the Librarian, Treasurer, Public Works Director, Attorney, and Engineer to review. Mayor Gilbert asked if there were any questions concerning any of these reports.

Mayor Gilbert reported that information he learned from a Decatur Urbanized Area Transportation Study (DUATS), indicates the bridge going across I-72 is going to take awhile to complete. The new pavement is higher than the existing surface, so the girders supporting the new bridge are going to have to be taller than what they are now. The ramps will also need to be raised. Mayor Gilbert mentioned that officials estimate completion in the summer of 2012.

Trustee Allsup asked the status of the Oreana Water Line project. Engineer Chuck Hunsinger replied that the land selected for the pumping site is going through the purchase process.

OLD BUSINESS:

Barclay Library Taxation Litigation

Village Administrator Heather Kimmons suggested that any discussion on this subject be reserved for Closed Session. Trustees agreed.

NEW BUSINESS

Zoning Board of Appeals Report and Recommendation – Variance on Setback, 275 Magnolia Drive

Chair Kermit Stokes was in attendance to present the report and recommendation on behalf of the Zoning Board of Appeals (ZBA). Kermit mentioned that a hearing was held at Village Hall on December 6, 2010 concerning a request received from David and Kathy Cuttill, who live at 275 Magnolia Drive. The Cuttill's have asked for approval to build a 20' x 25' room addition onto the east side of their home. The two-story home is located on the corner of Elwood Street and Magnolia Drive, and as defined in the Zoning Ordinance, has two front yards. Kermit explained that if the addition is approved, there would

only be an 11' setback from the property line along Elwood Street to the addition. The ordinance requires a 30' setback.

Kermit reported that one member of the ZBA voted no on the petition because of concerns with the triangular measurement that has to be maintained on corner lots. Kermit explained that Section 3.20 E (1) of the Zoning Ordinance states:

Section 3.20 E (1)

In any residence district, within a triangular area formed by the street property lines and a line connecting points on the street property lines located 35 feet from the street property line intersections.

Kermit reported that the Building Inspector went out to the property the day following the hearing and verified that the addition would not impact the corner clearance and would not fall into the 35' visibility triangle. Based on these findings, Kermit stated that the ZBA recommends the variance be granted.

Kermit stated that although he has been on the ZBA for several years, the process of completing the paperwork associated with a variance request has been a learning process for him. Specifically, he referred to the "Findings of Fact" report form and noted that he found the initial report form very cumbersome and confusing. Kermit commented that after the Village Administrator tweaked the form for him, it made it much more understandable and easier to complete. He pointed out that in all his years of serving on the ZBA, he has never seen a report form like this before. Kermit stated that in his opinion, it has been a real disservice to the ZBA members not to have had a form like this. He suggested that a similar one be made up to give to members to complete before the hearing which would allow more thought into the process of whether to recommend a variance be granted or not. It would also provide more consistency to the process. Each member could then submit their individual reports to Kermit, who would then compile the comments into a summary report for submission to the Village Board with any recommendations on petitions. Kermit stated that this process may eliminate some of the confusion members may have.

Village Administrator Heather Kimmons pointed out that Kermit has done a great job in completing this new form she put together. She noted that he put in a lot of time over the past couple of weeks on this matter. Heather expressed her appreciation for Kermit's efforts.

Heather mentioned that she included a copy of the new form Kermit completed, and the section out of the Zoning Ordinance the ZBA and the Village Board are to use when considering a request for variance. She pointed out that it appears there are three standards that both the ZBA and the Village Board have to find before a variance is granted. They are:

Section 10.11

E. Standards:

- (1) The ZBA shall not recommend, and the Village Board shall not vary, the provisions of this Zoning Code, unless it shall find that the:
 - (a) Property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that Zoning District.
 - (b) The plight of the owner is due to unique circumstances.
 - (c) The variation, if granted, will not alter the essential character of the locality.

Heather mentioned that there are more items that can be used to supplement these three, but believes these items are the most important ones. The others could be used to solidify any decision. Heather commented that she is hopeful all of this information will be helpful as we moved forward.

Trustee Rasho mentioned that he is struggling on whether he should vote in favor or against this request. He explained that maybe it is because of his age and background, but he appreciates what the applicant is trying to do; to help his mother out. Trustee Rasho stated that in his opinion, he would classify this as a “*hardship*”. However, he suggested that Mr. Cuttill consider trying to build onto his home without violating the setback. Leaving only an 11’ setback between the property line and the home is a significant variance.

Trustee Rasho also pointed out that Staff is trying to fix the process for considering variances from this point forward. He referred to Kermit’s comment that as chair of the ZBA, he has never seen a report form like this before. Trustee Rasho commented that he doesn’t want to discourage Staff not to continue improving this process.

Lastly, Trustee Rasho mentioned that another reason he may vote in favor of granting the variance is because the ZBA voted to recommend it be approved. This recommendation should not be taken lightly. He referred to the decision made about six months ago, where a variance for a room addition was denied. Trustee Rasho noted that that particular case was not identical to the Cuttill’s request, but it was similar.

Trustee Morr commented that he has just a couple of questions pertaining to this request. First, what are the “*unique circumstances*”, that are mentioned in the Zoning Ordinance talks about, and secondly, how are the “*unique circumstances*” determined. Secondly, if the Board allows this variance, will it be allowed for everybody? Trustee Morr commented that in his opinion, a variance is to encroach into the setback by three or four feet, not nineteen. He referred to the variance that was denied in June, and noted that he believes the ZBA members have a very difficult job in making decisions on variance requests.

Trustee Johnson commented that she feels the same way as Trustee Morr. She mentioned that in her opinion, there has not been any consistency on variance petitions. Nineteen feet into the front yard setback is quite a bit to ask for.

David Cuttill commented that he appreciates the concerns voiced on the ordinance, but noted that he has owned this home since 1999. He added that since that time, he has done a lot of improvements to the property and plans on staying there for a long time. David mentioned that he has limited resources to do anything else to accommodate his mother. His mom is older and is lonely and it is her wishes to live with the family. David mentioned that he is willing to sacrifice on the size if the Board asks him to, but believes the proposed plans are adequate. He mentioned that he did consider building the room onto the back of the house, but there was not adequate space to do so.

Trustee Allsup commented that he has been a stickler through the years for complying with the ordinances. He asked Trustees to consider at what point a variance should be granted. Trustees talked about this matter briefly.

Trustee Allsup moved, and Trustee Rasho seconded, to accept the recommendation from the Zoning Board of Appeals and grant the variance for 275 Magnolia Drive, as presented. The variance allows the homeowner to build a 20’ x 25’ room addition onto the east side of his home. The addition will encroach 19’ into the front yard setback along Elwood Street. Section 5.2 F (1). Upon a call of the roll, the vote was:

Yeas: 4—Rasho, Allsup, Hubbard, Reed.

Nays: 2—Morr, Johnson.
Absent: 0—None.
Motion declared carried.

Finance Committee Recommendation – Choice of Auditor

Trustee Hubbard reported that the Finance Committee met on December 6, 2010 to listen to presentations from two auditing firms who are interested in providing auditing services for the Village. In attendance were Korey Davis and Chad Lucas on behalf of Sikich, a firm out of Springfield, Illinois, and Cathy Mansur was present on behalf of May, Cocagne & King, P.C., located in Decatur, Illinois. Trustee Hubbard mentioned that both companies talked about what services their firm could provide for the Village, and the costs associated with providing those services. The quote received from Sikich was \$995 less than the one from May, Cocagne & King.

Trustee Hubbard mentioned that committee members, along with help from Staff deliberated for the better part of an hour on which firm to recommend the Village contract with for the next three years. Member Craig Ritter, who is a public accountant, brought up that Sikich has only been working with the Village for three years. Craig mentioned that in his professional opinion, it takes approximately two years for a firm to get going on an audit, and would suggest the Village retain Sikich as its auditing firm for the next three years. Another aspect members discussed, was that it would create a lot more work for the Treasurer if the Village chooses to bring in a new firm. Trustee Hubbard mentioned that he believes both firms are very reputable. Sikich has done a lot of government work so they have a broad experience base. However Sikich is located in Springfield and May, Cocagne & King is a Decatur firm.

Trustee Hubbard reported that after discussing this matter at length, members agreed to recommend the Village enter into a three-year agreement with Sikich at a proposed cost of \$54,000, but noted that the engagement letter would be for a one year period of time. If for some reason the firm is found negligent in their responsibilities, the Village would have the option to terminate the three-year agreement. Korey Davis was asked if one of the Staff from the new Sikich office in Decatur could be included in the next audit. Korey replied that this could be arranged. Trustee Hubbard reported that the Finance Committee voted five to zero to recommend the Village retain Sikich as its auditing firm.

Trustee Rasho mentioned that he was in attendance at the Finance Committee meeting and noted that he was impressed with the deliberation concerning the audit. He pointed out that in his opinion, even though it makes sense to retain the same auditor for the reasons mentioned earlier, sometimes it is not always a good idea. Trustee Rasho suggested the Village consider asking the Finance Committee to also at some point review the engineering and legal contracts from a business approach.

Trustee Hubbard moved, and Trustee Allsup seconded, to retain Sikich LLP as its auditor for the next three years, at a cost of \$54,000, as recommended by the Finance Committee. Upon a call of the roll, the vote was:

Yeas: 6—Rasho, Allsup, Morr, Johnson, Hubbard, Reed.
Nays: 0—None.
Absent: 0—None.
Motion declared carried.

Economic Development Committee request for Donation

Mayor Gilbert reported that the Economic Development Committee recommended the Village make a donation in the amount of \$1,000 to support the annual chili event. He explained that this amount helps cover expenses associated with hosting the event here in Forsyth. Trustees debated on whether the donation should be taken out of the General Fund as has been done in past years, or if the funds could be

taken out of the Hotel/Motel Tax receipts. After discussing this issue, Trustee Hubbard moved, and Trustee Johnson seconded, to allow the Village to spend \$1,000 to promote the annual chili cookoff, and that the money be taken out of the Hotel/Motel tax fund. Upon a call of the roll, the vote was:

Yeas: 6—Rasho, Allsup, Morr, Johnson, Hubbard, Reed.
Nays: 0—None.
Absent: 0—None.
Motion declared carried.

2010 Christmas Dinner

Trustee Hubbard commented that he thought this year's Christmas party was excellent. He added that he enjoyed the venue, the room was not crowded, and the food selections were also good. He thanked Trustee Johnson and her committee for their work in putting the event together. Other Trustees echoed Trustee Hubbard's comments.

Motion for Closed Session

Trustee Hubbard moved, and Trustee Reed seconded, to go into closed session at 7:34 p.m. for the purpose of discussing of minutes of meetings lawfully closed under the Open Meetings Act, for purposes of approval and/or semi-annual review—5 ILCS 120/2(c) (21), discuss potential litigation or setting of a price for sale or lease of property owned by the public body—5 ILCS 12-2(c)(5), and to discuss the appointment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity—5 ILCS 120/2(c)(1)

Upon a call of the roll, the vote was:

Yeas: 6—Reed, Rasho, Allsup, Morr, Johnson, Hubbard.
Nays: 0—None.
Absent: 0—None.
Motion declared carried.

Closed Session

Call to Order

Mayor Harold Gilbert reconvened the meeting to order at 9:32 p.m.

Roll Call

Physically Present: Rasho, Allsup, Morr, Johnson, Hubbard, Reed.

Also Physically Present

Heather Kimmons, Kathy Mizer.

Discussion of minutes of meetings lawfully closed under the Open Meetings Act, for purposes of approval and/or semi-annual review—5 ILCS 120/2(c)(21).

Litigation setting of a price for sale or lease of property owned by the public body—5 ILCS 12-2(c)(5)

The appointment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an

employee of the public body or against legal counsel for the public body to determine its validity—5 ILCS 120/2(c)(1)

Trustee Rasho moved, and Trustee Johnson seconded, for the Village to reimburse Village Administrator Heather Kimmons \$1,788, for the lack of healthcare coverage for one month that was paid for out-of-pocket until Village healthcare coverage became available. Upon a call of the roll, the vote was:

Yeas: 6—Rasho, Allsup, Morr, Johnson, Hubbard, Reed.

Nays: 0—None.

Absent: 0—None.

Motion declared carried.

Trustee Rasho moved, and Trustee Johnson seconded, to increase the compensation for the Village Administrator effective January 1, 2011, from \$70,000 to \$80,000 annually. Upon a call of the roll, the vote was:

Yeas: 4—Rasho, Allsup, Morr, Johnson.

Nays: 2—Hubbard, Reed.

Absent: 0—None.

Motion declared carried.

Adjournment

Trustee Rasho moved, and Trustee Allsup seconded, that the meeting be adjourned. The meeting was adjourned at 9:34 p.m. on voice vote.

By: _____
Village Clerk