

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

**Held at the Village Hall
June 20, 2011**

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:

Hubbard, Rasho, Johnson, Trachtenberg, Reed.

Absent: Morr.

Also Physically Present

Deputy Rodgers, Charlyn Brautigam, Sgt. Flannery, Chuck Hunsinger, Michael Poe, Jean Campbell, Donna, Sam and Jacob Faber, Chris Lusvardi, John Kottke, Stephen Scott, Larry Coloni, Heather Kimmons, Rhonda Stewart, Darrell Woolums, Kathy Mizer.

2011 Forsyth Family Fest

Mayor Gilbert commented that in his opinion, he believes everything went well for the 2011 Forsyth Family Fest, with the exception of the parade, which was rained out. He added that Trustee Johnson and her committee members did a very good job this year. However, Trustee Johnson as Chair of the committee pulled everything together. Leadership is important!

Mayor Gilbert also thanked Public Works Director Larry Coloni and his staff for all that they did to help make this year's festival a huge success. He mentioned that he heard a lot of praise for their hard work during the event.

Trustee Johnson voiced her appreciation to the employees and to the Staff. They were there to help from Friday evening's cookout, until the conclusion of the festival on Saturday. Public Works Department employees even took over the cooking duties for Friday evening's cookout.

Village Administrator Heather Kimmons commented that on behalf of Staff, it was felt that a lot more was placed on the committee this year than in previous years because Staff has been busy doing other things. She added that Staff felt the committee did a fantastic job and wanted to show their appreciation for all of their hard work by being there to help where needed. Heather mentioned that the cooperation from everyone who helped was impressive!

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 6, 2011.

2. Approval of Treasurer's Report, May 31, 2011.
3. Approval of Bills presented for payment, June 20, 2011. ***Invoices were always available for review upon request.*

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

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

Nays: 0—None.

Absent: 1—Morr.

Motion declared carried by omnibus vote.

Public Comment

Steve Scott, who lives at 841 W. Forsyth Parkway, was in attendance to comment on a certified letter he received last week from Village Clerk Kathy Mizer, concerning sidewalk repairs. Steve mentioned that he has lived in four different homes in the Village since moving to Forsyth in 1989 and at no time has ever received a letter similar to this one. The letter stated that the Village had received numerous complaints from walkers and bikers about a broken piece of sidewalk in front of his new home. Steve pointed out that he uses the walks and path all the time and has never heard anyone complain. He added that there are multiple pieces of sidewalk that are broken along W. Forsyth Parkway, and more than 200 deflections and separations of greater than an inch in other areas of the Village. Steve stated that he wanted to bring this to the Board's attention as he was very surprised to receive this letter. He mentioned that he does have plans to make the necessary repairs to his sidewalk.

Village Clerk Kathy Mizer mentioned that although she had received complaints about the repairs to Steve's sidewalk, the reason the letter was sent certified was because the Occupancy Permit issued for Steve's home, was contingent upon the sidewalk being repaired. The Occupancy Permit was issue on January 7, 2011.

Public Works Director Larry Coloni mentioned that the Building Inspector brought this matter up because the sidewalk was damaged during the construction of Steve's new home. If the walks or bike paths are damaged after construction has been completed, the Village has the responsibility to make the necessary repairs. Larry explained that it is the Village's policy to not hold property owners responsible for sidewalk repairs unless they are damaged by the property owner.

Larry mentioned that \$30,000 has been budgeted In the Fiscal Year 2011-2012 Budget for sidewalk repairs, and pointed out that this amount is double what has been budgeted in the past for this purpose. Each year, the worst areas are targeted and repairs are made.

Trustee Rasho commented that he was glad to hear the Village has a policy in place concerning this issue. He stated that although he agrees with Steve's comments regarding the many areas of walks or path that are in need of repair, we have a policy in place and the Village should adhere to it.

ADMINISTRATION REPORT

LAW ENFORCEMENT—

- Sgt. Flannery and Deputy Rodgers were present to talk about recent activity that Village officers have responded to and answer any questions Trustees may have. Deputy Rodgers reported that

activity in the Village has been pretty quiet during the past two weeks. Officers are staying busy, but there have been no significant issues to report.

- Deputy Rodgers also mentioned that there were no problems he was aware of associated with the Futures golf tournament or the Family Fest that were held last week. However, he noted that he did hear a lot of compliments on the fireworks display last Saturday evening in the park. People could see the fireworks from a long ways away.

Trustee Johnson mentioned that she had heard there was some vandalism to a few of the carnival rides on Thursday evening. She asked the deputy about this matter. Trustee Johnson commented that she was a little disappointed to hear of this problem because the Village had hired security for each night of the festival. Deputy Rodgers replied that he was not aware of any problems, but would speak with his command office and inquire about this issue.

Public Works Director Larry Coloni mentioned that there was also some vandalism reported on Friday night near the Greenbrier Subdivision. He described the damage and asked the status of this report. Deputy Rodgers replied that he was not aware of this incident either but would look into it.

Trustee Reed asked what the plan was going to be this year concerning fireworks.

Village Administrator Heather Kimmons commented that the Village ordinance does allow for the display of fireworks as long as a permit has been obtained from the Board of Trustees and proof of liability insurance is received by the Village Clerk. Heather explained that the permit then has to be signed by the Hickory Point Fire Department Chief, and the Mayor. Lastly, the permit also has to be applied for thirty (30) days in advance of the display.

Heather reported that one permit was received a few weeks ago from a resident, but after giving the individual the information on what would be needed to obtain the permit, the permit application was withdrawn. As of today, no other applications have been received. Heather stated that fireworks are not allowed in the Village this year because no one has been issued a permit.

Heather mentioned that she planned to discuss this issue with Forsyth deputies with the intent to try and take a middle ground approach on the issue. She suggested deputies issue a written warning to anyone who is caught shooting fireworks, but not ticket them on the first offense. If an individual is caught again, then the person should be cited.

Trustees expressed mixed feelings on this issue. Some felt that officers should use their discretion on when an individual should be cited, while others felt that the ordinance should be adhered to. Heather reiterated that she feels confident that something practical and something that makes sense can be worked out between the Village and the Sheriff's Office.

Following a lengthy discussion, Trustees asked the Administrator to talk further with deputies and work something out with them on how the ordinance should be enforced regarding the display of fireworks.

ADMINISTRATIVE REPORTS —

Village Administrator Heather Kimmons mentioned that in addition to her report, Trustees have been provided with written reports or narratives to review from the Attorney, Engineer, Librarian, Public

Works Director, and Treasurer. Mayor Gilbert asked if there were any questions concerning any of these reports. There were none.

OLD BUSINESS:

There was no Old Business presented.

NEW BUSINESS

Summer Park Program Report

Village Administrator Heather Kimmons mentioned that although a written report from Summer Recreation Director Mike Poe was not included in meeting packets for review, Mike was here tonight to present an overview of how the program is going to Trustees. Heather commented that she has been very impressed with the job Mike has done with the program so far, especially in light of the fact that he lost his co-director unexpectedly right before the program began. She asked Mike to present his report.

Mike reported that there have been a total of ten (10) days where he has had the opportunity to have the park open and have some type of activity for kids. Activities have been cancelled on three (3) different days due to rain. Mike mentioned that 115 kids from approximately 66 families registered for this year's summer program. He commented that he is seeing a wide diversity of kids this year. Two of the park staff has worked with the program before, and two are new this year. Mike mentioned that the recreation program has been fairly successful in getting staff to return year after year, which brings continuity to the program.

Heather remarked that in her opinion, Mike and his staff is doing a good job. Trustee Johnson thanked Mike and his staff for helping with the dunk tank during the Forsyth Family Fest on Saturday.

Ordinance No. 825, Amending Stormwater Ordinance No. 763

Village Administrator Heather Kimmons referred to a copy of the Village current stormwater ordinance, No. 763, and a draft ordinance No. 825, that was included in meeting packets. The draft ordinance includes suggested amendments to Section 3 and 28 of the existing stormwater ordinance. These modifications are recommendations from the Macon County Soil and Water Conservation District to all members of the MS-4 working group. This group consists of the City of Decatur, Village of Mt. Zion, Village of Forsyth, and Macon County. In speaking with the MS-4s, it was determined that these modifications would help with enforcement of the ordinance. Heather explained that in Section 3 the ordinance states:

Section 3. **LAND DISTURBANCE PERMITS REQUIRED.** Every person shall comply with the Village of Forsyth stormwater policy. In addition, a land disturbance permit will be required to be obtained from the Village in the following cases:

- (a) Land disturbing activity disturbs one (1) or more acre of land;
- (b) Land disturbing activity of less than one (1) acre of land if each activity is part of a large common plan of development that affects one (1) or more acre of land;
- (c) Land disturbing activity of less than one (1) acre of land, if in the discretion of the Village such activity poses a unique threat to water, or public health or safety because the activity by itself or of a cumulative effect negatively impacts water quality;

- (d) The creation and use of borrow pits.
(e) The creation and use of soil stockpiles greater than fifty (50) cubic yards in volume.

Section 28. **PENALTY.** It shall be unlawful for any person to commit any act declared unlawful under this ordinance, to violate any provision of this ordinance, to violate the provisions of any permit issued pursuant to this ordinance or to fail or refuse to comply with any lawful communication or notice to abate or take corrective action as required. Any person or entity found to be in violation of the provisions of this Chapter of the Code shall be fined in an amount not less than fifty dollars (\$50) or more than Five Hundred Dollars (\$500) for each offense, and each day upon which a violation occurs or is allowed to continue, or a condition is not brought into compliance after notice, shall be viewed and may be prosecuted as a separate and distinct offence, in addition to the penalties set forth above, the Village may issue a stop work order for any person in violation of any provisions of this ordinance.

One final amendment was suggested, which was to combine the words “storm water” into one word “stormwater”. This change was recommended for consistency between each governmental entity. Heather mentioned that the City of Decatur and Macon County have already adopted these changes, and recommended the Board also do so.

Following a brief discussion, Trustee Rasho moved, and Trustee Johnson seconded, to approve Ordinance No. 825 – Ordinance Amending Village Ordinance No. 763, National Pollution Discharge Elimination System Ordinance (“Stormwater Ordinance”). Upon a call of the roll, the vote was:

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

Request to Authorize Expenditures of Budgeted Funds for Ball Diamond Updates

Village Administrator Heather Kimmons mentioned that the Village budgeted \$100,000 for upgrades to the lights for Diamond No. 1 and 2 this fiscal year. She commented that Public Works Director Larry Coloni has done a lot of work to get cost estimates for this project and has submitted two proposals for the Board to consider. Larry reports that the existing lights for these diamonds are approximately twenty years old.

Heather mentioned that one of the quotes is significantly lower on the lighting components than the other. After talking with Larry about the two quotes, Heather stated that Larry feels comfortable with Egizii Electric doing the installation of the new lights at a cost of \$39,800 and recommends that the Village purchase the new lighting equipment from Universal Sports Lighting at a cost of \$29,718.75. Heather pointed out that even if the Village plans for a 10% overrun on the project, the total cost would be \$76,536.63, which again is under what was budgeted for this lighting project. If approved, Larry anticipates installation of the new lights could begin sometime in August. Heather remarked that if the Board decides to take action on this item, the Board should also make a motion to waive the formal bidding process.

Trustee Larry Reed commented that he would like to ask a few questions concerning this item before Trustee take action on it. He first asked if Larry it he was planning to replace the lights that are currently there on the diamonds, or was his plan to replace more equipment to help eliminate the dark spots on the fields. Larry replied that the plan was to replace the lights that are there now and then

re-aim them to provide better lighting for the ball fields. The existing lights are approximately twenty years old, and some of the lumens have lost their lighting capability. This is why there are dark spots out on the diamonds.

Next, Trustee Larry Reed asked who the primary user was for these ball fields. Larry Coloni replied that the Forsyth Youth League uses the fields the most. Trustee Reed asked if the Maroa/Forsyth School District also uses them. Larry Coloni replied that he didn't think so.

Trustee Reed also asked if the Youth League has been asked to contribute to this lighting upgrade. Larry Coloni replied that he does not believe so. He added that he does not think this has ever been considered. Trustee Reed remarked that it appears that the Youth League receives the benefits of utilizing the ball fields without paying anything to the Village for the use. Larry Coloni remarked that he believes this has been the policy for a long time.

Another question Trustee Reed asked was who pays for the electricity for the lights. Does the Youth League pay anything? Larry Coloni stated that the taxpayers of the community pay for the electricity. Trustee Reed reiterated that it appears the Village pays for the new lights and the electricity for them? Larry Coloni replied that this was correct. Trustee Reed commented that it appears the Youth League gets a pretty good deal. This is a pretty sizeable expense for the Village and it appears the Youth League gets all of this for free

Trustee Reed also asked who sets up and prepares the diamonds for the Youth League games. Larry Coloni replied that Public Works Department employees do so. Trustee Reed asked how long it has been since the costs were reviewed and updated for this program. Larry Coloni replied that the costs are reviewed each year, but there has never been a decision made to increase any fees for use of the diamonds.

Trustee Rasho pointed out that there are many programs the Village spends money on and as an example, referred to all the programs the Library has throughout the year. He stated that even with all the compliments from people attending the Forsyth Family Fest, Trustee Rasho mentioned that he did receive questions on why the Village was spending taxpayer's money for a big party. Where do you draw the line? Trustees talked about this issue at length.

Trustee Hubbard moved, and Trustee Rasho seconded, to waive the formal bidding process, and authorize expending \$76,536.63 from Budget Line No. 01-52-893-2 for lighting improvements to Ball Diamonds No. 1 and 2. Upon a call of the roll, the vote was:

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

Nays: 0—None.

Absent: 1—Morr.

Motion declared carried.

Smoking Ordinance

Village Administrator Heather Kimmons referred to information provided in meeting packets on what the Village has on file pertaining to smoking in public places. She mentioned that the Village passed Ordinance No. 205 on November 20, 1978, but pointed out that most of the ordinance is moot at this point since the State of Illinois passed the Smoke Free Illinois Act in 2008. Heather explained that the Act requires public places and places of employment to be completely smoke-free inside and within 15 feet from entrances, exits, windows that open and ventilation intakes. Heather mentioned

that the law overrides any local ordinance to the contrary, and does not allow local laws to be less strict than the Act. Heather asked Trustee Hubbard to comment on this item since he asked that it be placed on tonight's agenda.

Trustee Hubbard mentioned that he has had a few parents speak to him after ball games about people smoking in Village parks. Concerns were mainly about people smoking around the concession stands when kids are present. Trustee Hubbard remarked that although he is aware people can smoke in the parks, he believes people should not do so around kids.

Mayor Gilbert stated that the Village can enforce the "*no smoking*" policy in the concession stand and also within 15 feet around the perimeter of the building. This is all part of the Act. He suggested the Village consider adding some signage to make people aware of the law.

Trustees discussed this issue at length. There was a consensus from Trustees to ask the Administrator to update the Village ordinance to reflect what is stated in the Smoke Free Illinois Act, and then post a couple of signs on the concession stand to let people know that smoking is prohibited within 15 feet of the building. Heather commented that she would try to put something together for Trustees to review at their next meeting.

Noise Ordinance

Village Administrator Heather Kimmons referred to information provided in meeting packets from the Zoning ordinance concerning the Village's noise regulations. Article XI, Section 11.1 of the ordinance states that sound levels shall be measured with a sound level meter and associated octave band analyzer manufactured according to standards prescribed by the American Standards Association. She commented that, in her opinion, for noise to be accurately measured, the Village would have to purchase equipment to do so, and estimated the cost to be at least \$3,000 - \$5,000.

Engineer Chuck Hunsinger pointed out that this ordinance was not written for nuisance complaints. It was written to regulate large developments, such as Menards, so that the Village could require a developer to conduct a noise analysis before building. These requirements were included in the Zoning Ordinance because it was restrictive for industries and large construction projects. It was not included with the intent to use as a nuisance ordinance. Chuck suggested that if the Village is having issues with boom boxes, the Board may want to consider adopting a nuisance ordinance to address noise complaints rather than change the standards outlined in the Zoning Ordinance.

Heather mentioned that she found some examples of noise ordinances from other communities to review. Some are more restrictive than others. Some municipalities appear to concentrate more on construction or vehicular noise, than on noise as a nuisance. Heather asked Trustee to provide direction on how this matter should be handled.

Trustee Johnson commented that in her opinion, an ordinance is needed. Homeowners shouldn't have to listen to "noise" from their neighbors while outside in their own backyard.

Trustee Rasho suggested this issue be deferred to Staff to evaluate and present a recommendation to the Board to consider.

Heather suggested that one idea to try and address noise complaints, would be to further study noise ordinances from other communities and try to incorporate some of that language into the Village

nuisance ordinance. Trustees agreed with this idea. Heather commented that she would try and put something together to present to Trustees for consideration at their next meeting.

Adjournment

Trustee Hubbard moved, and Trustee Johnson seconded, that the meeting be adjourned. The meeting was adjourned at 8:04 p.m. on voice vote.

By: *Kathy S. Mizer*
Village Clerk