

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

**Held at the Village Hall
July 5, 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:

Rasho, Johnson, Trachtenberg, Morr, Reed, Hubbard.

Absent: None.

Also Physically Present

Deputy Rodgers, Sgt. Flannery, Charlyn Brautigam, Chuck Hunsinger, Michael Poe, Jean Campbell, Heather Kimmons, Rhonda Stewart, Kris Quandt, Larry Coloni, Darrell Woolums, Kathy Mizer, Dick Jostes.

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 20, 2011.
2. Approval of Bills presented for payment, July 1, 2011 . ***Invoices were always available for review upon request.*
3. Approval of Bills presented for payment, July 5, 2011. ***Invoices were always available for review upon request.*

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, Johnson, Trachtenberg, Morr, Reed, Hubbard.

Nays: 0—None.

Absent: 0—None.

Motion declared carried by omnibus vote.

Public Comment

No public comment was presented.

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. Sgt. Flannery reported that activity in the Village has been pretty quiet during the past two weeks and consistent with law enforcement

expectations. Officers are staying busy, but he noted there have been no significant issues to report.

- Sgt. Flannery mentioned that officers received only a couple of complaints concerning fireworks over the weekend. Each incident was handled appropriately.

- Deputies have been on the bikes and are actively patrolling the parks and bike paths in the Village. No problems have been reported.

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, and Public Works Director. Mayor Gilbert asked if there were any questions concerning any of these reports.

Trustee Hubbard referred to the comment in the Public Works Director's report concerning the request received from Buckeye Pipeline. The business has asked to purchase 3.2 million gallons of water from the Village to hydro-test their storage tanks. Trustee Hubbard asked Public Works Director Larry Coloni to comment on this item.

Larry explained that the Federal government now requires pipeline companies to hydro-test their tanks before filling them. The business has asked to purchase 3.2 M gallons of treated water to do so. Larry stated that although he has no problem selling water to the pipeline company, he would rather sell them raw water using resources from Well 4 and 5 instead of using treated water. However, before doing so, Larry commented that he has to check with the Illinois Environmental Protection Agency (IEPA) to see if this sale would be permitted. If the IEPA approves of this sale, Larry mentioned that he would have to calculate the cost for selling the water to the pipeline company.

Trustee Hubbard also asked how the meeting went with representatives from Dunkin' Donuts, as was mentioned in the Village Administrator's report. Heather commented that she has talked with a representative from this business about the possibility of opening a franchise in Forsyth, and noted that the company is interested in locating a business in Forsyth, but needs a franchisee to do so. Anyone interested should let Heather know.

Village Administrator Heather Kimmons mentioned that Summer Park Recreation Director Mike Poe was in attendance if anyone has any questions to ask regarding the park program.

OLD BUSINESS:

Smoking Ordinance

Village Administrator Heather Kimmons referred to a copy of the *Smoke Free Illinois Act* that was included in meeting packets provided for review. She mentioned that this matter was discussed at the last meeting. Heather recommended that at a minimum, the Board should strike its current smoking regulation provisions from the Code. Because, most of the ordinance is moot since the Act was adopted in 2008. The Village can adopt stricter regulations than the Act, but that is up to the Board.

As a practical matter, Heather reported that "*No Smoking Signs*" have been ordered and will be placed in the area around the bleachers and also, around the concession stands in the park. In the event people continue to disregard the signs, adoption of an ordinance would be an option for the Board to consider which would allow the Village to enforce more stringent rules concerning smoking,

Heather mentioned that if the Board chooses to not adopt a new ordinance, the Village could simply strike its current ordinance and then formally recognize adoption of the statute. Again, the Village can adopt

more stringent regulations concerning smoking, but cannot adopt anything less restrictive. Heather asked for direction from Trustees.

Trustee Rasho remarked that in his opinion, it would be a good idea to do away with the Village's current ordinance and adopt the State statute. This would provide clarity to everyone as the current ordinance is confusing.

After a brief discussion, Trustee Rasho moved, and Trustee Johnson seconded, to strike out the Village's current ordinance concerning smoking, and formally recognize Forsyth's adoption of the statute (*Smoke-Free Illinois Act, 410 ILCS 82 et seq.*). Upon a call of the roll, the vote was:

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

Nays: 0—None.

Absent: 0—None.

Motion declared carried.

Noise Ordinance

Village Administrator Heather Kimmons referred to information provided in meeting packets concerning nuisances in the Village, specifically pertaining to “noise”. Also included, was a copy of a draft ordinance for the Board to consider. Heather mentioned that Trustees talked briefly about this matter at the last meeting after a resident came to a Board meeting to complain about noise from neighboring backyards. The draft ordinance Heather presented was in response to that complaint and Board discussion on that issue.

Heather explained that the draft ordinance presented tonight is an attempt to come up with a document that would be fairly easy for everyone to understand, if the Board chooses to adopt a nuisance noise ordinance. She asked for feedback from Trustees on whether they want to adopt an ordinance similar to what she presented, or possibly some modification of the draft. Heather mentioned that the alternative would be to leave the nuisance ordinance as it is; where noise is not specifically addressed in the Village Code. Heather remarked that in her opinion, adoption of a nuisance noise ordinance is not an essential ordinance, but she would leave this decision up to the Board.

Trustee Johnson voiced her support for adoption of a nuisance noise ordinance. She mentioned that at different times, residents throughout the Village have expressed problems with this issue.

Trustee Rasho commented that he has reviewed the proposed draft, and would support adopting the ordinance with the exception of Section C.4 that states:

“Land and frequent, repetitive or intermittently continuous sounds made by an animal owned or possessed by a resident, particularly between the hours of 10:00 p.m. and 8:00 a.m.”

Trustee Rasho pointed out that nuisances related to animals, was addressed when the Village entered into an intergovernmental agreement with Macon County a couple of years ago. The county has the authority to handle any complaints received from the Village relating to animal nuisance concerns.

Trustee Morr commented that he has read the Village's nuisance ordinance, and noted that it does not specifically address “noise” as a nuisance. He stated, that in his opinion, it makes enforcement of the existing ordinance a little difficult to handle. Adoption of a specific noise ordinance would let residents know what the Board's policy is and would also allow for the Village to enforce that policy. Trustee Morr remarked that he would be in favor of passing an ordinance similar to what has been presented to

address noise, but noted that the draft does not address noise from construction. He asked if anyone felt this should be included in the new document.

Village Clerk Kathy Mizer mentioned that construction noise is addressed in Article XI of the Forsyth Zoning Ordinance.

Section 11. C states:

“(2) Between the hours of 7:00 A.M. and sunset, noises customarily resulting from construction and the maintenance of grounds.”

After a brief discussion on the draft presented, Trustee Rasho moved, and Trustee Morr seconded, to approve the Nuisance Noise Ordinance, which amends Section 92 NUISANCE of the Forsyth Code of Ordinances, with the exception of paragraph four of the draft. Upon a call of the roll, the vote was:

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

Nays: 0—None.

Absent: 0—None.

Motion declared carried.

NEW BUSINESS

Plan Commission Recommendation, Special Use Permit, Power Wash Services

Village Administrator Heather Kimmons reported that the Plan Commission met last Thursday evening at the request of the Power Wash Services owner, Mr. Tim Nord. Mr. Nord submitted a petition for a Special Use Permit to re-erect his pole sign on the south side of the car wash property. Heather mentioned that Trustees may recall that Mr. Nord previously asked to install this sign on the property to the west, which he no longer owns. The Board denied that request.

Heather mentioned that although she was not able to attend the hearing, meeting packets do include a copy of the *Findings of Facts* report, and a draft set of minutes from the hearing. There were five Plan Commission members present and all voted to recommend the petition be denied. Heather stated that in her opinion, the rationale for their decision was very good and well justified by the Village's Long Range Comprehensive Plan. She mentioned that one of the things the Village will be doing in the very near future is to take a look at that plan. Perhaps there are things regarding signage that may be changed to allow for pole signs. However, the current plan is very clear. The Long Range Comprehensive Plan states that pole signs should be eliminated. They do not enhance the aesthetic quality or character of the Village.

Heather asked the Clerk to elaborate on the Plan Commission report. Kathy mentioned that members did talk about Mr. Nord's visibility concerns, but agreed that the issue was not significant enough to warrant approval of the pole sign. Other pole signs mentioned by the petition were also discussed. However, Plan Commission members agreed that each request has to be considered on an individual basis. Kathy pointed out that the Zoning Ordinance requires that all non-conforming signs be brought into compliance with the ordinance when a property is sold, or the business goes through a major renovation. In this particular case, the sign was removed from the property where Aspen Dental is now located because the Zoning Ordinance does not allow off-site signage. Mr. Nord sold that parcel.

Kathy also mentioned that the Plan Commission Chair, Steve Langhoff stated that although he understood Mr. Nord's plight, he did not feel Mr. Nord's request met the standards for granting a Special Use Permit. Specifically, would the requested Special Use Permit be harmonious with, and in accordance with, the

general objectives of the Comprehensive Land Use Plan and/or the Zoning Ordinance. Steve Langhoff stated that in his opinion, it does not.

Mayor Gilbert recognized Dick Jostes, who was in attendance and asked him to comment on this petition. Dick mentioned that he has been working part-time at the car wash since retiring several years ago and was here tonight on behalf of the business owner, Mr. Tim Nord. Mr. Nord could not be here tonight.

Dick stated that Mr. Nord does intend on removing the reader board on the existing sign, and also plans to redo the top sign face with new lettering. He referred to water consumption records received from the Village for both last year and this year, and noted that consumption has dropped 52% since the sign was removed. The car wash is losing business because motorists either can't find it, or they do not know it is there. Dick asked Trustees to reconsider the Special Use Permit requested.

Trustee Morr commented that he would like to see all of the tall signs in the Village brought into compliance as directed by ordinance. Specifically, he referred to the Mi Jalapeno sign, and stated for the record, that although he voted to approve the restaurant Special Use Permit for retaining their tall sign, he wishes he could reconsider that decision. Trustee Morr commented that he is glad to see the restaurant is doing well and has been there for awhile, but does believe it would have been an opportunity to bring this sign into compliance.

Trustee Morr commented that he would like to see Staff or any other Villager to come up with a plan to help out second tier businesses, who may be located a block or two blocks off of US Rt 51. They need signage on the highway to help drive traffic to their businesses.

Heather referred to an item mentioned in her written report, specifically concerning the McDonald's Restaurant. The business is planning to completely rebuild or remodel their existing building within the next year. Representatives from the restaurant have been advised that they will need to apply for several special use permits for their planned sign package. Heather mentioned that the business does plan to ask for approval to retain their very tall pole sign.

Trustee Trachtenberg mentioned that in her travels to other areas around the country, she has observed smaller monument signs along the highway that direct traffic to businesses that are located off of the main road or highway. She encouraged the Village to look into this concept further. Trustee Trachtenberg pointed out that in her opinion, you can't see the tall pole signs when driving up or down US Rt 51, unless you are looking up in the air. You can't see them, they simply are too high.

Trustee Rasho commented that a lot of small towns use the tall signs to advertise gas stations and fast food restaurants in their communities. Typically, they have the signs located where they can easily be seen from a nearby interstate. In consideration of the Power Wash Services request, Trustee Rasho remarked that he believes the Village should be consistent with its ordinances. As the opportunity presents itself, it should be addressed.

Trustee Rasho commended Heather for bringing the signage issue for the new McDonald's Restaurant to the Board's attention. He pointed out that if the Board chooses to deny the Power Wash Services petition, McDonalds needs to know what the Board's policy is pertaining to signage. This will ensure there is no misunderstanding about it when their Special Use Permits are submitted.

Trustee Hubbard commented that he is in agreement with Trustee Rasho's comments. He added that he would hate for McDonald's to be surprised once their plans have been submitted.

Mayor Gilbert commented that he is a little more liberal when it comes to tall signs. He explained that as a person who travels extensively on the interstate system, he depends on these signs for gas or food. Travelers look for the tall sign to know where to stop.

Mayor Gilbert also pointed out that if the Power Wash sign had been located on the Power Wash property to begin with, the Village would not have asked for it to be removed. Mr. Nord was only told to take the sign down because the adjacent lot was sold to Aspen Dental and Mr. Nord could not have an off-site sign. Mayor Gilbert stated that based upon this fact, Mr. Nord should be allowed to re-install the pole sign on his property.

Trustee Hubbard commented that he agrees with the Mayor's comments. Mr. Nord has shown that the car wash business has lost a substantial amount of business since the sign was removed. Trustee Hubbard commented that in his opinion, believes this large due to loss of the tall sign advertising the business.

Trustee Johnson mentioned that she was in attendance for the Plan Commission meeting and feel members carefully considered Mr. Nord's petition. Members made their decision on what they felt what was right.

Trustees talked at length about different ideas to address Mr. Nord's visibility concerns. Heather pointed out that for now, the Long Range Comprehensive Plan and the Zoning Ordinance are pretty clear regarding the Village's position on pole signs. Perhaps this is an issue that Trustees want to give serious consideration during the update process of both documents.

Trustee Rasho moved, and Trustee Johnson seconded, to apply the Zoning Ordinance and Long Range Comprehensive Plan to Mr. Nord's petition as set forth herein, and accept the Plan Commission's recommendation to deny the petition. Upon a call of the roll, the vote was:

Yeas: 4—Rasho, Johnson, Trachtenberg, Morr.
Nays: 2—Reed, Hubbard.
Absent: 0—None.

Motion declared carried and the petition was denied.

Oreana Water Line – Rejection of Bids

Village Administrator Heather Kimmons reported that per Engineer Chuck Hunsinger, the Village of Oreana plans to reject its bids on the joint water line project with the Village of Forsyth. They are hoping to re-bid the project this fall. Based upon this report, Heather recommended the Village do the same.

Trustee Hubbard moved, and Trustee Reed seconded, to formally reject the Oreana water line bids opened on May 12, 2011 and reiterate its intent and request that the Village of Oreana reimburse it for all sums incurred, in the estimated amount of \$4,030.25. Upon a call of the roll, the vote was:

Yeas: 6—Rasho, Johnson, Trachtenberg, Morr, Reed, Hubbard.
Nays: 0—None.
Absent: 0—None.

Motion declared carried

Request to Authorize Expenditures of Budgeted Funds for Hundley Road Sewer Extension, Shadow ridge Estates subdivision Water Main and Cox Street from Smith to US Rt 51 – Engineering and Design

Village Administrator Heather Kimmons asked for authorization to expend funds for three capital projects. All were budgeted for this fiscal year.

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| 1. Hundley Road Sewer Extension (design) | \$30,000 | Line Item: 52-00-822-1 |
| 2. Shadow Ridge subdivision Water Main (design and construction) | \$161,000 | Line Item: 51-00-816 |
| 3. Cox Street to US Rt 51 (design) | \$58,072 | Line Item: 01-41-869-1 |

Heather recommended the Board authorize these expenditures, which will allow the engineer to proceed with the engineering and design for each one.

Trustee Rasho moved, and Trustee Hubbard seconded, to authorize these budgeted expenditures which were recommended by the Village Administrator. Upon a call of the roll, the vote was:

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

Nays: 0—None.

Absent: 0—None.

Motion declared carried

Request to Authorize Expenditures of Budgeted Funds for Beaver Creek Lift Station Pump Replacement

Village Administrator Heather Kimmons referred to a memo from the Public Works Director concerning the purchase of two new pumps for the Beaver Creek Lift Station. He also submitted two cost estimates for the new pumps. Metropolitan Pump Company submitted the lowest price and Larry recommends the Board purchase them at a quoted price of \$11,582.

Heather mentioned that \$15,000 was budgeted for this purpose and recommended the Board authorize this expenditure using funds from Line Item 52-00-830.

Trustee Morr moved, and Trustee Hubbard seconded, to authorize the Public Works Director to purchase two pumps from Metropolitan Pump Company, at a quoted price of \$11,582. Upon a call of the roll, the vote was:

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

Nays: 0—None.

Absent: 0—None.

Motion declared carried

Village Response to Federal Heavy Truck Legislation

Village Administrator Heather Kimmons stated that she placed this item on the agenda for tonight's meeting at the request of the Mayor. She asked him to comment on it.

Mayor Gilbert mentioned that he was recently contacted by some folds who are concerned about some proposed legislation that would increase the weight limit on semis from 80,000 lbs. to approximately 97,000 to 99,000 lbs. respectively. Their main concern is that this increase could potentially damage local infrastructure; specifically bridges and roads. The proposed bill also does not require the truckers to pay any additional fees for this increased weight to help maintain the infrastructure that could potentially be damaged by the extra weight. This will leave all the repair work to whoever has jurisdiction over the roads or bridges, which could be substantial. local municipalities, states, or counties would have to absorb the costs for these repairs. Mayor Gilbert commented that after listening to their position on this matter, he also got to thinking about what happens to the added momentum this increased weight puts on a truck. The added weight would increase the length a driver would need to safely brake, which could be

critical, as well as being a contributing factor in truck related accidents. Mayor Gilbert commented that in his opinion, it is important as a Village to encourage our congressmen to support the effort to defeat this measure.

Trustee Morr asked if the Mayor was contacted by the people who are in favor of this measure, or by the people that oppose it. Mayor Gilbert replied that he was contacted by the lobbying group that is trying to defeat the measure.

Trustee Rasho remarked that the Mayor has not mentioned who the group is that he has been referring to. He asked who the Mayor was speaking about when he referred to "*some folks, or they*" in his comments.

Mayor Gilbert replied that the group was "*Go Rail*". He added that it is important to realize that this group does have some motivation for opposing this legislation. If you diminish the demand for trucking, you obviously would have to do more by rail. However, if you look at any of the freight trains that go through the area, you will notice that half of the cars are loaded with trucks. The rail cars transport them from one place to another.

Trustee Rasho commented that his question was honest and based simply on a lack of knowledge on the issue presented. He explained in his opinion, if the Mayor or anyone else wants to get involved in this cause that would be fine. However, the Village should not take a position one way or the other on this issue. Trustees are contacted all the time about support for different groups. As a citizen, everyone has the right to take a particular position on an issue, and respond if they choose to do so. Trustee Rasho reiterated that in his opinion, he does not believe it is appropriate for the Village to take a certain position on this matter. He added that he believes this action should be done individually and privately.

Mayor Gilbert responded to Trustee Rasho's comments. He mentioned that he could have acted on this request without bring it to the Board, but noted that he wanted to keep members advised.

Village Administrator Heather Kimmons replied that she commends the Mayor for bringing this to the Board, and mentioned that this is definitely a step in the right direction. However, Heather stated that she believes the concerns raised by Trustees are that all members of the Board need to be on the same page if a response is going to be sent out on Village letterhead. Heather mentioned that based on a small amount of research she did this afternoon, she found another bill proposed to counteract the legislation the Mayor talked about. She commented that this legislative bill also has some meritorious claims. Heather stated that she just doesn't feel the *Board* should be endorsing either position, but if an elected official feel strongly either way, they may choose to do so on their own. She pointed out that there is nothing to stop an individual from expressing their personal opinion on a particular issue.

Mayor Gilbert commented that he just wanted to make Trustees aware of this proposed legislation. Following this discussion, Trustees agreed not to take any action on the request presented.

Review of Strategic Plan

Village Administrator commented that she added this item to the agenda upon the prompting of Trustee Trachtenberg who just returned from attending a recent newly elected official's conference. Heather commented that Kerstin asked her about the status for updating the Village's Long Range Comprehensive Plan. Heather explained that this is something the Village is actively going to be working on, hopefully within the next few months. In talking with Kerstin, Heather mentioned that it occurred to her that the Strategic Plan is something that should be reviewed periodically. She pointed out that the plan was approved last September, so the Village has been operating under it since that time. Heather commented that by placing this item on tonight's agenda, she thought it may allow an opportunity for the Board to take a quick look at it. If following any discussion of the Plan, Trustees find areas that they feel need to

be concentrated on more heavily, than she would like those areas to be identified. Personally, Heather remarked that she feels there are areas that need more concentration. Specifically, Heather mentioned the need for developing an Economic Development Plan for the Village. She asked for feedback from Trustees.

Trustee Trachtenberg commented that she feels attending the newly elected official's workshop was very beneficial to her. One presenter talked about how Boards should try to not get bogged down in management issues or with managing Staff. It is the roll of the elected officials to set policies and to set an overall direction for the Village.

Trustee Trachtenberg mentioned that another issue discussed at the conference was the need for Boards to review and update their Comprehensive Plan. The standard for this review and update is every five years. However, review of the Strategic Plan should be done every year as a means to measure how a municipality is moving toward the goals set forth in the Comprehensive Plan. Trustee Trachtenberg mentioned that it appears that the Village really only has a Strategic Plan. Forsyth doesn't have an up-to-date Comprehensive Plan. The last one done was in 2002. She remarked that in her opinion, this is something that needs to be addressed. Trustee Trachtenberg commented that a good example of why the Comprehensive Plan should be up-to-date; is the whole discussion on the Power Wash sign issue that was talked about earlier in tonight's meeting. If the Board knows what is in their Comprehensive Plan, maybe Trustees wouldn't get so bogged down in things like this. Trustee Trachtenberg suggested that the Board schedule a special meeting every year to review the Strategic Plan. Another idea would be to invite the public to attend that meeting and weigh-in on the discussion.

Trustee Rasho commented that he is glad Kerstin attend the conference and also expressed her views on what she learned. He pointed out that the Board has talked about updating its Comprehensive Plan and the Zoning Ordinance for a long time. The first document to be written was the Strategic Plan, and he noted this has been completed. This was the first step. All of these documents work together. Trustee Rasho mentioned that hopefully, by the time we have the Comprehensive Plan and Zoning Ordinance updated, the Board will be talking about next year's budget. This will allow Trustees to select projects to place in the budget to help achieve its goals set forth in the Strategic Plan.

Village Administrator Heather Kimmons reported that she has scheduled several meetings with consultants from companies who may be interested in helping update the Long Range Comprehensive Plan and the Zoning Ordinance. She asked if Trustees if they want her to meet with these individuals by herself and then present a recommendation to the Board on who she would like to work, or do they want the different firms to come to the Board and present their proposals to them to select.

Mayor Gilbert commented that he believes it would be good for the Board to listen to the different firms. He suggested asking for two or three proposals.

Trustee Johnson commented that she would prefer for Heather to meet with the different companies and then present her recommendation to the Board for consideration. She remarked that in her opinion, Heather knows what the Village is looking for to help us through this process.

Trustee Reed commented that if we are talking about a large cost for updating these documents, than in his opinion, the proposals should be reviewed by the Board. If the cost is going to be low, then he has no problem with Heather making the choice. Trustee Reed asked Heather how much had been budgeted for these updates. Heather replied that \$50,000 was budgeted for each one, but mentioned that she does not believe that much money will be needed.

After talking about this briefly, Trustees agreed that the consultants should come to a meeting and present their proposals. There was no further discussion on the Strategic Plan.

Adjournment

Trustee Hubbard moved, and Trustee Reed seconded, that the meeting be adjourned. The meeting was adjourned at 7:52 p.m. on voice vote.

By: *Kathy S. Mizer*
Village Clerk