VILLAGE OF LIBERTYVILLE
BOARD OF TRUSTEES
August 9, 2016

President Weppler called to order a meeting of the Board of Trustees at 8:00 p.m. in the Village Hall, 118 West Cook. Those present were: President Terry Weppler, Trustees Richard Moras, Todd Gaines, Jay Justice, Scott Adams, and Peter Garrity. Trustee Donna Johnson was absent.

ITEMS NOT ON THE AGENDA

President Weppler asked if anyone had anything to bring before the Board that was not already listed on the agenda. Mr. Robert O'Brien, 1916 Darnell, spoke to the Board representing the Timber Creek neighborhood. His concern was with the condition of the neighborhood ponds that have become algae laden over the last two years. He noted that he had spoken with Public Works Director Paul Kendzior about the matter, and Director Kendzior had located a company to install bubblers in the ponds at a cost of approximately $10,000. Mr. O'Brien asked if money from the Special Service Area fund could be used to pay for the project. The Mayor stated that the matter would be referred to committee, and they would report to Mr. O'Brien and the neighbors of Timber Creek Subdivision.

OMNIBUS VOTE AGENDA

President Weppler introduced the Omnibus Vote Agenda and asked if any member wanted an item removed for separate discussion.

OMNIBUS VOTE AGENDA

A. Minutes of the July 26, 2016 Meeting
B. Bills for Approval
C. **ORDINANCE 16-O-75: Zoning Code Text Amendment re: Lot Coverage in Residential Districts**
D. **ORDINANCE 16-O-76: Approve Variation for corner Side Yard Setback – 454 Prairie**
E. **ORDINANCE 16-O-77: Approve Variation for Rear Yard Setback – 924 Quaker Hill Lane**
F. **ORDINANCE 16-O-78: Approve Variation for Front Yard Setback – 540 McKinley**
G. **RESOLUTION 16-R-27: Lease Purchase with J.P. Morgan Chase for Vactor Sewer Cleaner**
H. Waive Formal Bids and Purchase Aftermarket Equipment for Public Works Trucks
I. **RESOLUTION 16-R-28: Support FRA Train Crew Rule**
J. Raffle License Request – Y-Not Project

Trustee Moras moved to adopt the items listed on the Omnibus Vote Agenda in a single group pursuant to the omnibus vote procedures of the Libertyville Municipal Code. Trustee Gaines seconded. The Mayor asked for Board and public comment. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity

NAYS: None
ABSENT: Trustee Johnson

PLAN COMMISSION REPORT: Preliminary Plat of Subdivision – 127, 131, and 201 S. Stewart Avenue

President Weppler introduced a Plan Commission report regarding DRH Cambridge Homes' proposal to subdivide the northwest corner of Stewart Avenue and Florence Court to allow construction of two, 3-unit townhome structures. The property is zoned to allow for townhomes, but a subdivision is required. At the Plan Commission meetings, it was reviewed that an existing alley serves the property along with property to the west. The petitioner proposed the vacation of the alley and improvement of the area with an access drive.

The Plan Commission recommended approval with a vote of 3-1, subject to a number of conditions to be completed prior to Village Board of Trustees review. The Mayor noted that the petitioners completed those conditions but moved the entry to the site further to the east.

As the Site Plan had been significantly altered and did not represent the plan voted on by the Plan Commission, Administrative Staff recommended that the Village Board refer the Preliminary Plat to the Plan Commission for review. The Mayor then asked for questions and comments.

Mr. David Munaretto of DRH Cambridge Homes addressed the Board. He stated that the plan met all zoning requirements and he presented an illustrated report on all conditions requested. He then noted that the revised preliminary plat switches the alley and green space locations, improving parking and ingress/egress.

Trustee Adams asked if the Plan Commission had seen the revised plans. Director of Community Development John Spoden said they had not.

Ms. Deb Galvin, 155 Sunnyside Place, asked that the project be returned to the Plan Commission. She referred to a petition signed by over thirty neighbors who expressed concerns with the townhome project. Concerns expressed were: aesthetics, parking, traffic (especially ambulance traffic), inordinate number of garbage cans, detention, extra burden on storm sewers, and logistics. Ms. Galvin stated that the size and density of the townhomes do not fit the neighborhood, and the design does not fit the existing neighborhood architecture.

Trustee Adams moved to refer the item to the Plan Commission for review of the revised plan. Trustee Moras seconded. The Mayor asked for further questions.

Trustee Garrity asked for clarification of the number and placement of the garbage cans and the increase in impervious coverage. Trustee Adams noted a height increase with the design. Trustee Justice expressed concern that ambulance services were still using Stewart Avenue as a route to Condell Hospital rather than Milwaukee Avenue.

The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

REZONING AND VARIATION REQUEST FOR 119 APPLEY AVENUE

A. Zoning Map Amendment from C-2 to R-6

President Weppler introduced a Plan Commission/ZBA report for a Zoning Map Amendment to rezone property from C-2 to R-6 and a variation to reduce the minimum required front yard setback in order to rehab and convert a two-family residential structure into a single family detached residential structure currently located in a C-2, Downtown Community Commercial District at 119 Apple Avenue. Members of the Plan Commission/Zoning Board of Appeals supported the rezoning as the subject parcel lies within Single Family Residential land use classification in the Comprehensive Plan Future Land Use Map. The Mayor then asked for questions and comments.
The petitioners' attorney Mr. Michael Ralph was present to answer questions. The Mayor and Trustee Moras stated that the plan provided significant improvement to the property and neighborhood.
Trustee Moras moved to approve the Map Amendment (PC 16-23), and Trustee Adams seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

B. ORDINANCE 16-O-79: Amend Zoning Code

President Weppler introduced the ordinance Amending the Zoning Map of the Village of Libertyville. Trustee Justice moved to approve the ordinance, and Trustee Moras seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

C. ZBA Report: Front Yard Setback

President Weppler introduced a Plan Commission report for a variation to reduce the minimum required front yard setback in order to rehab and convert a two-family residential structure into a single family detached residential structure currently located in a C-2 Downtown Community Commercial District at 119 Appley Avenue. Members of the Plan Commission noted that the rehab and its conversion will be done without changing the footprint of the existing structure, but a portion of the new construction lies within the front yard setback. The ZBA unanimously recommended approval for the variation since the strict provisions of the Zoning Code would create a practical difficulty for the applicants. The Mayor then asked for questions or comments.
Trustee Garrity moved to approve the variation of front yard setback (ZBA 16-16), and Trustee Adams seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

D. ORDINANCE 16-O-80: Approve Front Yard Setback Variation

President Weppler introduced the ordinance granting the variation of a front yard setback at 119 Appley Avenue. Trustee Moras moved to approve the ordinance, and Trustee Adams seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

ORDINANCE 16-O-81: Approve Places for Eating Tax

President Weppler explained that after review and discussion of short-term and long-term financial sustainability strategies, the "Places for Eating Tax" had been identified as a potential revenue source, which a non-home rule community like Libertyville can enact. The tax would be 1% and would apply to purchases of food and/or beverages for immediate consumption at any establishment that provides a seating area. Any affected business would be required to file a separate Village tax return with the 1% collection paid directly to the Village on a monthly or quarterly basis, coinciding with the business sales tax filings with the Stat of Illinois Department of Revenue. The 1% tax would be in addition to the general merchandise sales tax of 7%, for an effective tax rate of 8% on dining. The 1% Places for Eating Tax Rate would be competitive to that currently applied to dining purchases in surrounding communities, and Village Staff estimates the tax would generate approximately $700,000 per year.
The Mayor and Village Board recently held two Committee of the Whole meetings with restaurant and related businesses to discuss the establishment of the 1% Place for Eating Tax. Based on discussions from the meetings and input from local business owners, along with recommendations from the Economic Development Commission and Parking Commission, The Mayor and Village Board directed Administrative Staff and the Village Attorney to prepare the Places for Eating Tax Ordinance, which includes the following conditions:

1. Establishes an effective date of October 1, 2016 to coincide with the fourth quarter of the calendar year;
2. Includes a sunset provision effective April 30, 2018;
3. Limits the amount of the tax to 1%, which is equal to the current State of Illinois limit;
4. Allow for the filing of the tax either manually or electronically;
5. Excludes any unit of government that sells prepared food at their facility, whether such sales are made directly by the unit of government or a third-party under contract.

With regard to catering services, the Village Staff and Attorney have included two ordinances for Village Board consideration: Ordinance option 1 includes caterers, but only on delivery of food within the Village, and adds the tax to outside caterers who deliver within the Village; or Ordinance option 2, which specifically excludes caterers from the Places for Eating Tax. Village Staff recommended Ordinance option 1 to

include caterers along with restaurants in payment of the tax. The Mayor then asked for questions and comments.
Trustee Moras approved of incorporating the conditions. Mr. Kyle Cashman of O'Toole's asked if the Village would pay any of the fees required for filing, and the Village Administrator said that the Village would pay any fees.
Trustee Adams moved to approve the ordinance amending the Municipal Code and Adopting a Places for Eating Tax. Trustee Moras second. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

RESOLUTION 16-R-29: Change Order 2 for 2016 Road Rehabilitation Program
President Weppler explained that on February 23, 2016, the Village Board awarded the contract for the 2016 Road Rehabilitation Program to the low bidder, A Lamp Concrete Contractors, Inc. in the amount of $3,585,771.11. Included in the Capital Improvement Fund is $150,000 for annual asphalt and concrete pavement patching. Village Staff determined that it is the most cost effective to utilize the same contractor for the 2016 Road Rehabilitation Program to complete the patching work as well rather than bidding a separate contract. The cost savings will be the result of very minimal mobilization and traffic control and protection charges. East Golf Road from Milwaukee Avenue to Fourth Street and the Libertyville Sports Complex main access drive are scheduled for pavement patching. This will necessitate a Change Order to the Road Rehabilitation Program contract in the amount of $150,000, with final expended costs based upon actual quantities constructed and will not exceed the authorized amount of the Change Order. Administrative Staff recommended approval for Change Order #2 with A Lamp Concrete Contractors, Inc. The Mayor asked for questions and comments.
Trustee Garrity moved to adopt the resolution for Change Order #2 for the 2016 Road Rehabilitation Program, and Trustee Moras seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

RESOLUTION 16-R-30: Change Order 3 for 2016 Road Rehabilitation Program
President Weppler recapped the 2016 Road Rehabilitation Program and two previous change orders to the contract totaling $3,815,771.11. The initial change order was for parking lot work at Fire Station 2 in the amount of $80,000, which was funded from the Public Improvements Building Fund. The second change order was for additional pavement patching work in the amount of $150,000, which was budgeted in the Capital Improvements Fund.

The competitively bid contract for the Fourth Avenue, Red Top Drive and Greentree Parkway Federal Aid Urban (FAU) pavement rehabilitation project, which is 80% federally funded and administered by the Illinois Department of Transportation (IDOT), came in approximately $250,000 below the engineer's estimate. As a result of the lower contract price, the Village's cost share for the project is now only $187,000 instead of the budgeted $368,000 in the Road Improvement Fund, a savings of $181,000.
The Mayor continued explaining that in addition to the $368,000 budgeted, the Village also budgeted $3,5000,000 in the Road Improvement Fund and $610,000 in the Motor Fuel Tax Fund for road construction work. After accounting for the expenditures to date, $705,228.89 is still available for additional street rehabilitation work in the Road Improvement and MFT Funds. This amount would be sufficient to cover additional pavement rehabilitation work in the western half of the Oaks subdivision, which is estimated to cost $550,000. This proposed additional work would necessitate a third change order to the contract with A Lamp Concrete Contractors, Inc. and would not exceed $550,000. Administrative Staff recommended approval. The Mayor asked for questions and comments. The Mayor noted that these are all budgeted funds.
Trustee Adams moved to adopt the resolution for Change Order #3 for the 2016 Road Rehabilitation Program, and Trustee Moras seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

NORTH SHORE BIKE PATH DRAINAGE IMPROVEMENT PROJECT

A. Approve Agreement with County of Lake

President Weppler explained that during the very heavy rainfall event that occurred in the spring of 2013, significant rear yard flooding took place in the residential properties along Sunnyside Avenue (immediately east of Fourth Avenue) that abut the North Shore Bike Path. The flooding was the result of the absence of a suitable drainage system and a safe overland flow route. The Village, the Lake County Division of Transportation (LCDOT) and the Lake County Stormwater Management Commission (LCSMC) collaborated to address the flooding problem.
The Village and the LCDOT, acting on behalf of the County of Lake, propose to enter into an agreement, which has been reviewed and approved by the Village Attorney, to memorialize the design, construction, funding, and maintenance responsibilities for the proposed drainage improvements. This will include a storm sewer extension, drainage swale, and a safe overland flow path for storms of low to moderate intensity.
Downstream constraints limited the possibility of a larger drainage system. The proposed project will reduce the occurrence but not eliminate flooding impacts.
In accordance with the agreement, the Village has acted as the lead agency and the LCDOT has indicated a commitment to contribute reimbursement funding of 10% of the construction costs, pending approval by their Board. The percentage is based on the percentage of LCDOT right-or-way that is tributary to the watershed at this location.

Once the improvements are completed, the Village will be responsible for all associated maintenance. The LCSMC will also be providing Grant reimbursement funds in the amount of $30,000. Eligible items for Grant funs include engineering and surveying expenses in addition to construction costs.
The LCDOT funding share will be applied after remaining Grant funds have been subtracted from the project's construction costs. Based on the lowest responsible contractor bid that was received and remaining Grant funds after expenses, the amount of reimbursement funding from LCDOT will be $19,080.00, not including any authorized change orders. Administrative Staff recommended approval of the Agreement for the Sunnyside Avenue-North Shore Bike Path Drainage Improvements with the County of Lake and execution by the Mayor and Village Clerk. The Mayor asked for questions and comments. Responding to Truss Garrity, director Kendzior clarified the construction of the storm sewer and swale.
Trustee Garrity moved to approve the agreement and authorize execution. Trustee Adams seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

B. Award Contract to Berger Excavating

President Weppler explained that competitive bids were received and opened on July 28, 2016 for the proposed Sunnyside Avenue-North Shore Bike Path Drainage Improvements. The lowest bid was from Berger Excavating in the amount of $197,314.00 for the base bid work. The engineer's estimate was $239,633.75 for the base bid work, and there were two alternates for 4-inch and 6-inch caliper trees. Two-inch caliper trees were included in the base bid. It was not recommended to proceed with either bid alternate because the survival rate for smaller trees is much better and the path abuts the commercial properties where existing vegetative screening already exits.
The Capital Improvements Fund provides $200,000 for the proposed project. As of this date, $188,157.34 is still available following expenses for design engineering. It is expected that this remaining available amount will be reduced to $176,500.00 after processing the not yet submitted invoices for engineering and surveying services. Sufficient funding for the project is available because of the $30,000 in LCSMC reimbursement Grant funding and $19,080 reimbursement funding from the LCDOT.
Berger Excavating Contractors, Inc. is a large and experienced underground contractor and has successfully competed previous similar projects for the Village and is currently performing all grading and underground at the Parkside of Libertyville development.
Administrative Staff and consulting engineers, Gewalt Hamilton Associates, Inc. recommend the contract award to Berger Excavating Contractors, In. in the amount of $197,314.40.
Trustee Justice moved to award the contract to Berger Excavating and authorize execution. Trustee Gaines seconded. The Mayor asked for further comments or questions. The motion carried on roll call vote as follows:

AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

PETITIONS AND COMMUNICATIONS
President Weppler announced the following:

- The Fire Pension Board will meet at 8:30 a.m. on Monday, August 15, 2016 at the North Fire Station
- The Appearance Review Commission will meet at 7:00 p.m. on Monday, August 15, 2016
- The Parking Commission will meet at 10:00 a.m. on Tuesday, August 16, 2016
- The Economic Development Commission will meet at 7:30 a.m. on Wednesday, August 17, 2016 at Medline – Libertyville Distribution Center, 1501 Harris Road
- The Plan Commission/Zoning Board of Appeals will meet at 7:00 p.m. on Monday, August 22, 2016
- The Bicycle Advisory Commission will meet at 6:00 p.m. on Tuesday, August 23, 2016
- The Streets Committee will meet at 7:00 p.m. on Tuesday, August 23, 2016
- The Village Board will meet at 8:00 p.m. on Tuesday, August 23, 2016

The Mayor offered congratulation to the Village Board and Staff on Libertyville receiving the "Voice of the People" award for Foundations of Livability from the National Research Center, based on the results of the recent citizen survey.

EXECUTIVE SESSION – Setting Price for the Sale of Property and Personnel
The Mayor noted the need for the Board to meet in Executive Session for discussion of setting the price for sale of property and personnel. Trustee Justice moved to g into Executive session at 9:04 p.m., and Trustee Garrity seconded. The motion carried on roll call vote as follows:
AYES: Trustees Moras, Gaines, Justice, Adams, and Garrity
NAYS: None
ABSENT: Trustee Johnson

ADJOURNMENT
The Board returned to the regular meeting at 9:24 p.m., and with no further business, Trustee Gaines moved to adjourn, Moras seconded, and the motion carried on a unanimous voice vote.

Respectfully submitted,

Sally A. Kowal
Village Clerk