

REGULAR MEETING  
MINUTES

JUNE 15, 1998

The regular meeting of the Sleepy Hollow Corporate Authorities was called to order at 7:45 p.m. In attendance were President Shields; Trustees Czerniawski, Harney, Merkel, Nemec, and Williams; Police Chief Montalbano; Treasurer Panning; and Clerk Olson. Trustee DeBolt was absent.

MINUTES:

1. NEMEC MOVED WITH A SECOND FROM MERKEL TO APPROVE THE REGULAR MINUTES OF JUNE 1, 1998 AS SUBMITTED. MOTION PASSED BY VOICE VOTE WITH CZERNIAWSKI, HARNEY AND WILLIAMS ABSTAINING.

PRESIDENT:

1. President Shields commented on the way our meetings have been conducted recently and said we will follow Robert's Rules of Orders for all future meetings which require that trustees obtain permission to speak from the chair.

2. NIPC has sent information on a planning workshop which will be forwarded to our committee on same.

3. President Shields discussed a possible pathway around Sabatino Park and noted that we can apply for a construction grant for this project, but we would need to first apply to the division of natural resources for a permit. It was suggested that we ask the new engineers what it would cost to apply for this grant.

4. We received the contract for Phase III of the Village Hall landscaping from RLS, whose bid was previously approved by the board. This bid also includes work on the Joy/Randall and Locust/Route 72 entryways. Trustee Harney questioned whether we wish to continue upkeep on the entryway fences or remove them. This will be considered in the future. CZERNIAWSKI MOVED WITH A SECOND FROM WILLIAMS TO APPROVE THE CONTRACT FROM RLS LANDSCAPE & NURSERY COMPANY IN THE AMOUNT OF \$14,450.00. AYE: CZERNIAWSKI, WILLIAMS, HARNEY, MERKEL, NEMEC. MOTION PASSED.

CLERK:

1. HARNEY MOVED WITH A SECOND FROM MERKEL TO APPROVE ORDINANCE NO. 98-14 ENTITLED "AN ORDINANCE AMENDING SECTION 5-3-2 A. OF THE MUNICIPAL CODE OF SLEEPY HOLLOW BY ADDING THREE (3) TEMPORARY ADDITIONAL STOP INTERSECTIONS AT JOY LANE AND FAWN COURT AND THREE (3) TEMPORARY ADDITIONAL STOP INTERSECTIONS AT JOY LANE AND JAMESTOWNE ROAD". AYE: MERKEL, NEMEC. NAY: CZERNIAWSKI, HARNEY, WILLIAMS. MOTION DID NOT PASS. The Board felt studies should be done before installing stop signs and that approval of this ordinance could cause an increase in resident requests for stop signs on other streets.

2. HARNEY MOVED WITH A SECOND FROM MERKEL TO APPROVE RESOLUTION #269 ENTITLED "A RESOLUTION APPROVING THE LEASE AND HOLD HARMLESS AGREEMENT FOR A TWO (2) ACRE PARCEL ADJACENT TO THE HEADLESS HORSEMAN STABLES". The Board would like to add a paragraph to the agreement stating that the Headless Horsemen Stables must remove the electric fence upon termination of the agreement. CZERNIAWSKI MOVED WITH A SECOND FROM HARNEY TO AMEND RESOLUTION #269 BY ADDING A PARAGRAPH TO THE CONTRACT THAT IF THE VILLAGE DETERMINES IT WOULD LIKE THE ELECTRIFIED FENCE REMOVED, IT WILL BE DONE UPON TERMINATION OF THE CONTRACT AT THE COST OF THE HEADLESS HORSEMAN STABLES AND ENGINE THALMAN, OWNER/OPERATOR".

ON AMENDMENT: AYE: CZERNIAWSKI, HARNEY, MERKEL, NEMEC, WILLIAMS. MOTION PASSED.

ON MAIN MOTION: AYE: HARNEY, MERKEL, CZERNIAWSKI, NEMEC, WILLIAMS. MOTION PASSED.

3. Discussed draft ordinance amending the provisions of the zoning code relating to playhouses and similar structures in residential districts. Children's swing sets are currently illegal in the Village. WILLIAMS MOVED WITH A SECOND FROM NEMEC TO SEND THE PROPOSED ORDINANCE ON PLAYHOUSES AND SIMILAR STRUCTURES TO THE ZONING BOARD. MOTION PASSED BY VOICE VOTE.

4. Discussed draft ordinance amending the regulations of the village zoning code regarding fences. Trustee Harney is concerned that the proposed fence along Randall Road could transfer the traffic noise to homes farther into Saddle Club and wants the Zoning Board to review this particular issue. Other trustees were concerned about having a fence ordinance for a specific area of the village only and feel we need more discussion on exactly what type of fence we will accept. NEMEC MOVED WITH A SECOND FROM MERKEL TO REFER THE ORDINANCE AMENDING THE REGULATIONS OF THE VILLAGE ZONING BOARD REGARDING FENCES TO THE ZONING BOARD FOR THEIR RECOMMENDATION. MOTION PASSED BY VOICE VOTE WITH WILLIAMS VOTING NO.

\*\*\*\*\*OPEN TO THE PUBLIC\*\*\*\*\*

(8:30-8:40 p.m.)

1. Jim Podbregar, who lives at the corner of Sycamore and Locust, wanted to discuss the grading plan for his property, (which is in the flood plain) and distributed a drawing of his grading plan. He was advised that he must first meet with Building Trustee Harney and Code Enforcement Officer Kruse before coming before the Village Board.

PLAN COMMISSION:

1. Chairman Markey stated that a wetlands ordinance is being reviewed by Kane County officials.
2. The Plan Commission is also currently working on a telecommunications ordinance.

ZONING BOARD:

1. Chairman Neil said there is an upcoming meeting with potential developers of the property at Locust and Route 72.
2. A meeting will be set for the near future with members from all village boards with Ladi Kolacny concerning the KinderCare development. The annexation and sewer issues must be finalized with West Dundee before we can proceed.
3. Chairman Neil said they will review the fencing and playhouse issues and if possible, include them in the public hearing when scheduled for KinderCare.

ZBA:

No report.

ATTORNEY:

No report.

ENGINEER:

No report.

TREASURER:

1. Add \$14.31 for AT&T. CZERNIAWSKI MOVED WITH A SECOND FROM NEMEC TO APPROVE THE JUNE 12, 1998 WARRANTS IN THE AMOUNT OF \$61,911.36. AYE: CZERNIAWSKI, NEMEC,

HARNEY, MERKEL, WILLIAMS. MOTION PASSED. Discussed the \$2,000 bill for removal of the burn pile which appears to have been unauthorized prior to the removal and is substantially over the budgeted amount.

2. There were no comments on the financial statements.

3. The audit field work should be complete June 18<sup>th</sup>.

4. The Finance Committee meeting has been rescheduled to June 25<sup>th</sup> at 7:30 p.m.

5. The appropriations hearing is scheduled for July 6<sup>th</sup> at 7:00 p.m.

6. A village employee (non-resident) has requested use of the park pavilion. Our ordinance specifies use by residents only. HARNEY MOVED WITH A SECOND FROM CZERNIAWSKI TO ALLOW EMPLOYEES TO USE THE PARK FACILITIES UNDER THE SAME RULES AS APPLY TO VILLAGE RESIDENTS.  
MOTION PASSED BY VOICE VOTE.

7. Discussed whether we should designate one individual as purchasing agent for the Village to ensure that the policies and procedures for purchase orders and bids are correctly followed. There have been problems in following the step-by-step procedures and it was requested that a staff employee assist board members with the details of this process. A list of guidelines to be followed for this process will be prepared and a staff member will be available to review projects contemplated.

#### ROADS & PARKS:

No report.

#### FINANCE:

No report.

#### WATER:

1. The equipment for the water treatment program has not yet arrived to begin the project. The new engineers need to be brought up to date on this project.

2. Twin Sewer is not yet complete; the Crane Drive work is still under discussion.

#### POLICE:

1. The monthly police activity report was distributed.

#### HEALTH & SANITATION:

1. Little Tykes can replace the broken playground equipment in Saddle Club, which include slides, a climbing chain fence, and steps. We will have to install these pieces when they arrive, either Public Works or possibly the Service Club can do so. NEMEC MOVED WITH A SECOND FROM HARNEY TO PURCHASE REPLACEMENT PLAYGROUND EQUIPMENT IN THE AMOUNT OF \$1,283.00 FROM LITTLE TYKES.  
AYE: NEMEC, HARNEY, CZERNIAWSKI, MERKEL, WILLIAMS. MOTION PASSED. The Board suggested that regular review and maintenance of all park playground equipment should be done by Public Works.

#### BUILDING:

1. The sign for the Sign Depot does not require a variance and has been approved by phone vote. HARNEY MOVED WITH A SECOND FROM CZERNIAWSKI TO RATIFY THE PHONE VOTE APPROVING THE SIGN FOR THE SIGN DEPOT. MOTION PASSED BY VOICE VOTE WITH MERKEL VOTING NO.

2. A building permit has been issued for another lot on Hillcrest. We have requested a hydrology plan for dealing with the water on this lot due to its location by Rainbow Creek. We have just received a letter from a law firm concerning this lot which will be forwarded to our attorney.

3. Trustee Harney would like to discuss the Podbregar matter at a future executive session.

OLD BUSINESS:

1. We now have a fairly complete Public Works projects list. All trustees should advise Trustee DeBolt of the priority of their submitted projects. Discussed some of the projects on the list. Trustee Nemec should check with the Park District about the cost of contracting with them to have our playground equipment regularly reviewed for safety purposes.

NEW BUSINESS:

1. Approximately 20-25 eagle scouts will be doing stream bank stabilization work along Sleepy Creek at Bullfrog Lane on June 26<sup>th</sup>. We have a budget of \$5,000 for this work. Lake Sharon residents have also requested that this stabilization work be done along their banks. Trustee Harney should contact those residents to discuss their plan. Residents along the banks will be advised on maintenance upkeep once the work is done and how to prevent some erosion to the banks. Trustee Harney will obtain for the Board a copy of the plan to be used from the Soil and Water Conservation District. HARNEY MOVED WITH A SECOND FROM NEMEC TO MOVE FORWARD WITH THE STREAM BANK STABILIZATION PROJECT ALONG BULLFROG WITH THE EAGLE SCOUTS WITH BUDGETED MONEY NOT TO EXCEED \$5,000.00. AYE: HARNEY, NEMEC, CZERNIAWSKI, MERKEL, WILLIAMS. MOTION PASSED. We must check with the Village Attorney on our liability with the boy scouts doing this work before the project continues.

CZERNIAWSKI MOVED WITH A SECOND FROM NEMEC TO ADJOURN THE MEETING AT 9:45 P.M. AYE: CZERNIAWSKI, NEMEC, HARNEY, MERKEL, WILLIAMS. MOTION PASSED.

Respectfully submitted,



Norine Olson  
Village Clerk

APPEALS HEARING  
MINUTES

JUNE 15, 1998  
RE: JOHN FAHY SUBDIVISION

The appeals hearing was called to order on June 15, 1998 at 6:50 p.m. In attendance were President Shields; Trustees Czerniawski, Harney, Merkel, Nemec, and Williams; Village Attorney Schuster; Code Enforcement Officer Kruse; John Fahy and his attorney Catherine Hurlbut; and Clerk Olson.

President Shields stated that this appeals hearing was called at the request of John Fahy pursuant to the letter of May 14, 1998 concerning his subdivision at Randall Road and Joy Lane, and stated the rules for this hearing, which were previously distributed to all parties. MERKEL MOVED WITH A SECOND FROM CZERNIAWSKI TO ADOPT THE VILLAGE OF SLEEPY HOLLOW BUILDING CODE APPEALS PROCEDURAL RULES. MOTION PASSED BY VOICE VOTE. Written notice of this hearing was sent to both Mr. Fahy and Ms. Hurlbut.

Ms. Hurlbut spoke on behalf of her client and noted that she previously stated her position which has been documented in writing. She noted that our notices have given little advance warning of due dates and hearings, making thorough research difficult. She questioned whether Mr. Kruse had the authority to revoke the permit under the May 14<sup>th</sup> letter that is the basis of this appeal, and has reviewed §6176 of the Kane County Code book. She said the legal issues have already been presented but added that Mr. Fahy has also made many telephone calls to Mr. Kruse in this matter.

Mr. Kruse said that his May 14<sup>th</sup> letter states his position and added that other sections of the Code allow all actions that he has taken in this matter. He noted that the permit revocation and stop work order have nothing to do with the impact fee issue, but the granting of an occupancy permit and issuance of a new work permit would be connected to the impact fee issue.

Ms. Hurlbut responded that the May 14<sup>th</sup> letter states that the action was taken due to failure to follow ordinances, one of which is payment of fees due. Another was allowing occupancy of the house by the purchasers, which they claim they did not allow. She said she should also have received notice of any other code sections violated by her client so appeals could be made to those sections also.

HARNEY MOVED WITH A SECOND FROM NEMEC TO ADJOURN TO EXECUTIVE SESSION AT 7:00 P.M. TO DISCUSS THE MERITS OF THIS APPEAL PURSUANT TO §2(C)(11) OF THE OPEN MEETINGS ACT. MOTION PASSED BY VOICE VOTE.

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The hearing reconvened at 7:40 p.m. Attorney Schuster stated that this matter will be taken under further advisement. HARNEY MOVED WITH A SECOND FROM CZERNIAWSKI TO CONTINUE THE APPEALS HEARING TO THE NEXT REGULAR BOARD MEETING ON JULY 6, 1998. MOTION PASSED BY VOICE VOTE.

Respectfully submitted,

*Norine Olson*

Norine Olson  
Village Clerk

EXECUTIVE MEETING  
MINUTES

Released 6-18-01

JUNE 15, 1998

The executive session for the John Fahy appeals hearing was convened at 7:00 p.m. for the purpose of discussing the appeals hearing and litigation pursuant to §2(c)(11) of the Open Meetings Act. In attendance were President Shields; Trustees Czerniawski, Harney, Merkel, Nemec, and Williams; Attorney Schuster; and Clerk Olson.

Attorney Schuster questioned whether Joel Kruse had authority to revoke the building permit under the sections he quoted in his May 14<sup>th</sup> letter; none expressly provide for this. However, the main issue is the impact fees due. He does not feel Ms. Hurlbut is correct that a public hearing must be held on the impact fees, and feels that the Village Ordinance is clear on the requirement of impact fees and would be upheld in court. However, the fact that Mr. Fahy has already built on two of the lots in the subdivision, without the Village collecting any fees, is a factor which could influence the outcome of the case. Fahy may have some cause for claiming detrimental reliance, since he claims that he could have charged more for each of the lots he has sold had he known that the Village intended to collect impact fees on the lots. There is also a chance that Fahy will sue the Village for damages. The Board also considered the expense it will incur to take this matter to trial.

The Board discussed the advisability of going forward with litigation in this matter at this time.

Trustee Harney requested that the Board consider ratifying Joel Kruse's revocation of the building permit for 694 Deer Lane, to support his action.

It was the consensus of the Board to defer final action on the appeal, and to direct the attorney to discuss settlement of the dispute with Mr. Fahy's attorney, and to settle for no less than 50% of the fees due

MERKEL MOVED WITH A SECOND FROM HARNEY TO ADJOURN THE EXECUTIVE SESSION AT 7:40 P.M. MOTION PASSED BY VOICE VOTE.

Respectfully submitted,



Norine Olson  
Village Clerk