

VILLAGE OF LIBERTYVILLE  
BOARD OF TRUSTEES  
May 26, 2020

Please Note: Meeting Conducted Virtually Due to Governor's Executive Orders #2020-10, 18, and 32

President Wepler called to order a meeting of the Board of Trustees at 8:00 p.m. which was held virtually. Those present were: President Terry Wepler, Trustees Donna Johnson, Richard Moras, Jay Justice, Scott Adams, Peter Garrity, and Patrick Carey.

**Employee Recognitions**

President Wepler recognized the following employees for their years of service to the Village of Libertyville:

Patricia Geske – 20 Years  
Rosalio Ayala – 20 Years  
Jose Valencia 15 Years  
Robert Peters – 5 Years

**Proclamation: Extending Emergency Declaration**

Pursuant to Village Ordinance and the Illinois Emergency Management Agency Act 20 ILCS 3305/11, President Wepler extended the March 15, 2020 Disaster Proclamation declaring a local disaster in the Village of Libertyville.

Trustee Johnson moved to extend the Disaster Proclamation, and Trustee Moras seconded. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey  
NAYS: None

**ITEMS NOT ON THE AGENDA**

President Wepler asked if there was anyone who had an issue to bring before the Village Board that was not already listed on the agenda. There were no items.

**OMNIBUS VOTE AGENDA**

President Wepler introduced the Omnibus Vote Agenda and asked if there were any items to be removed for separate discussion.

Omnibus Vote Agenda

- A. Minutes of the May 12, 2020 Village Board Meeting
- B. Bills for Approval
- C. **ORDINANCE NO. 20-O-32:** An Ordinance Declaring Surplus Property
- D. **RESOLUTION NO. 20-R-64:** A Resolution for a Raffle License –  
MainStreet Libertyville

- E. **RESOLUTION NO. 20-R-65:** A Resolution Approving a Contract to Renew Office 365 Software
- F. ARC Report

Trustee Johnson 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 Moras seconded. President Wepler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey

NAYS: None

**REPORT OF THE PLAN COMMISSION (PC 20-05) Planned Development Final Plan – 1201 American Way**

President Wepler reported that at their May 11, 2020 meeting, the Plan Commission heard a request from Encompass Health Corporation for approval of a Planned Development Final Plan in order to construct a Rehabilitation Hospital at 1201 American Way. Members of the Commission concurred with the request as the Site Plan was consistent with the Planned Development Concept Plan. A motion to recommend Village Board approval passed with a vote of 7-0. President Wepler asked for questions and comments and there were none.

Trustee Johnson moved to approve the Planned Development Final Plan for Encompass Health Corporation, and Trustee Adams seconded. President Wepler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey

NAYS: None

**ORDINANCE NO. 20-O-33: An Ordinance Approving a Planned Development Final Plan (PC 20-05) – 1201 American Way**

President Wepler presented the ordinance that would approve a Planned Development Final Plan in order to construct a Rehabilitation Hospital at 1201 American Way. In order to expedite the review process, the applicant requested that if the Village Board approved the request, that the ordinance be adopted at their May 26, 2020 meeting. A Development Agreement would be prepared for the Village Board to review at a future meeting. Staff recommended the Village Board approve the ordinance. President Wepler asked for questions and comments and there were none.

Trustee Justice moved to approve the ordinance approving a Planned Development Final Plan at 1201 American Way, and Trustee Johnson seconded. President Wepler asked

for further Board or public comment and there were none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey

NAYS: None

**REPORT OF THE ZONING BOARD OF APPEALS (ZA 20-11) Variations for a Fence – 234 McKinley Avenue**

President Weppler explained that the property located at 234 McKinley Avenue is a through lot that has frontage on McKinley Avenue and Florence Court. The owners of the lot are constructing a new house and are requesting fence variations to allow installation of a six (6) foot tall, board-on-board wood fence along the perimeter of the lot north of the house. As proposed, the fence would require the following variations:

- Increase the maximum permitted height of a fence from four (4) to approximately six (6) feet in the front yard;
- Increase the maximum permitted linear length of a fence in the front yard from 33 feet to approximately 160 feet in the front yard; and
- Increase the maximum permitted amount that a fence may be opaque from 33% to 100% in the front yard.

The Zoning Board of Appeals heard the request at the meeting of May 11, 2020. After a thorough discussion of the proposal, the consensus of the members was to recommend denial of the fence height variation and denial of the variation for maximum opacity of the fence. Members supported the variation for the length of the fence. In conclusion, the Zoning Board of Appeals concurred with the request to place a fence along the perimeter of the property, but did not support the height proposed or the solid board-on-board type of fence.

Therefore, the motion to recommend approval of the height variation failed with a vote of 0 - 7; the motion to recommend approval of the linear length of the fence passed with a vote of 5 - 2; and the motion to recommend approval to increase the opacity of the fence failed with a vote of 1 - 6. President Weppler then asked for comments and questions.

Property owner Jack Danilkowicz addressed the Board with an explanation of the variation requests, including young children and dogs. He also noted that neighbors have similar fences. Trustee Johnson noted that safety was a compelling concern. Trustee Adams noted that the proximity of a bike path and agreed with a six-foot fence. Responding to a question from Trustee Carey, Director of Community Development John Spoden explained the variations for fences on Sherbourne and Broadway. Trustee Johnson asked about maintenance of the fence, and Mr. Danilkowicz stated his intention to keep the fence stained and repaired just as the fence on their former home on

Homewood. Trustee Moras asked if any neighbors had expressed concern, and, Director Spoden noted that one neighbor was not in favor of the fence design.

Trustee Johnson moved to approve the variation to increase the maximum permitted height of a fence from four feet to approximately 6 feet in the front yard. Trustee Adams seconded. President Wepler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Justice, Adams, and Carey  
NAYS: Trustees Moras and Garrity

Trustee Johnson moved to approve the variation to increase the maximum permitted linear length of a fence in the front yard from 33 feet to approximately 160 feet in the front yard. Trustee Moras seconded. President Wepler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, and Garrity  
NAYS: Trustee Carey

Trustee Johnson moved to approve the variation to increase to maximum permitted amount that a fence may be opaque from 33% to 100% in the front yard, and Trustee Adams seconded. President Wepler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, and Carey  
NAYS: Trustee Garrity

**RESOLUTION NO. 20-R-66: A Resolution to Approve Municipal Aggregation Rates for Electricity**

President Wepler explained that bids for the Village's municipal aggregation rates would be opened by NIMEC (Northern Illinois Municipal Electric Collaborative). The bid summary with anticipated rates was presented, and Staff will review the final results with David Hoover of NIMEC.

Based on the review of the anticipated bid results, the rates have been extremely close to the recently set ComEd rate. The ComEd rate varies but currently has an annualized average of 6.84 cents/kWh.

The Sustain Libertyville Commission requested the Village look at an opt-out green energy program for its residents. Staff discussed with NIMEC, our consultant, options for an aggregation program that would support "green" initiatives. Other communities have taken advantage of a new Green Energy program that provides for a match to the ComEd rate

and the purchase of RECs (renewable energy certificates). Quotes were received for this program.

The Sustain Libertyville Commission discussed the Green Program proposals at their May 20, 2020 Commission meeting and recommended unanimously to the Village Board that the 100% Green Energy option be utilized. This also provides for a \$36,000/annual Civic Contribution for the two (2) year term. This contribution will be used as general revenue addition, and/or a portion dedicated to sustainable efforts/programs.

The historical rates for Libertyville's municipal aggregation program are as follows:

2012 & 2013	FirstEnergy	4.75/kWh
2014 & 2015	FirstEnergy	6.54/kWh
2016	FirstEnergy	6.20/kWh (match ComEd rate)
2018	Dynegy Energy	7.178/kWh
2020/proposed	MC Squared Green	match ComEd rate (6.84/kWh annualized) *

Staff recommended approval of the resolution to award the contract for the municipal aggregation program to MC Squared for the Green Program to match the current ComEd rate, provide the 100% Green energy option, and authorize execution of the contract by the Village Administrator. The new rates will be effective on August 1, 2020.

\*The Annual ComEd rate can vary each month by half a cent (range is 6.34-7.34/kWh) for comparisons the Village has historically used the annualized average.

President Weppler noted that there was no guarantee of savings, but he favored that the civic contribution be allocated to the green initiative. Trustee Moras concurred.

Dave Hoover of NIMEC noted the initial opportunity was for the Village to procure more affordable rates for electricity. NIMEC cannot guarantee savings to the homeowner since ComEd rates fluctuate monthly. NIMEC recommended an alternative program that would match ComEd rates and offer 100% green energy. The Village would receive \$36,000.00 a year for using the 100% green energy.

Doug Reed from the Sustain Libertyville Commission noted that this is a great opportunity for the Village and we should proceed with the program.

Mayor Weppler requested the civic contribution be utilized exclusively for sustainability projects in the Village of Libertyville.

Trustee Carey moved to approve the resolution to approve Municipal Aggregation Rate for Electricity, and Trustee Johnson seconded. President Weppler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey  
NAYS: None

**RESOLUTION NO. 20-R-67: A Confirming Resolution for Change Order No. 1 to the Contract with Pecover Decorating Services, Inc. for Additional Work on the Adler Memorial Park Zero Depth Pool Painting Project**

President Wepler explained that the Village entered into a painting contract with Pecover Decorating Services, Inc. for the sandblasting, patching, caulking and painting of the Adler Memorial Park Zero Depth Pool on September 10, 2019 in the amount \$82,760.00 with the adoption of Resolution No. 19-R-157. After the sandblasting and patching work for the project was completed, it was identified that additional work was needed to reconstruct portions of the pool bottom and walls to better match existing conditions. This resulted in additional epoxy mortar materials and labor for application.

Staff was not made aware of these additional material and labor costs until after the work was performed. Staff and Pecover Decorating Services, Inc. have mutually agreed upon a cost of \$1,900.00 for the additional reconstruction work (Change Order No. 1). The new and final overall construction cost for the project will be \$84,660.00. There are sufficient funds available in the FY 2019/20 Annual Budget to process proposed Change Order No. 1 in the Swimming Pool Operations Department. A confirming change order is necessary because the additional reconstruction work was required to be completed before the pool could be painted.

Staff recommended adoption of the confirming resolution for approval of Change Order No. 1 to the contract with Pecover Decorating Services Inc. for the necessary additional reconstruction work on the Adler Memorial Park Zero Depth Pool project in the amount of \$1,900.00. President Wepler then asked for questions and comments.

President Wepler asked if the contractor could see the damaged areas prior to the work completion. Director of Public Works Paul Kendzior noted that it was not apparent until after the scraping was completed.

Trustee Johnson moved to approve the confirming resolution for Change Order No. 1 to the contract with Pecover Decorating Services, Inc. Trustee Moras seconded. President Wepler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey  
NAYS: None

**RESOLUTION NO. 20-R-68: A Confirming Resolution for Change Order No. 1 with National Power Rodding Corp. for the 2019 Sanitary Sewer Cleaning, Televising & Lining Project**

President Weppler reported that on November 12, 2019, the Village Board approved a contract with National Power Rodding Corp. in the amount of \$176,657.50 for cleaning, televising and sewer lining to be performed at various locations along the Village's sanitary sewer system.

After the work began, Public Works staff identified a few additional locations that were in need of immediate cleaning and televising that were not included within the scope of the original project. The necessary work resulted in \$12,752.10 of additional costs beyond the originally approved contract amount. A confirming Resolution is needed because this additional work needed to be completed while the Contractor was still mobilized in the Village with the required equipment and crews. This change order was delayed in getting to the Board because it took a longer than anticipated time to finalize the completed quantities.

Sufficient funds were available in the FY 2019/20 Annual Budget in the Water & Sewer Capital Improvement Fund to accommodate this additional work. This Change Order increased the total price of the contract to \$189,409.60.

Staff recommended adoption of the Confirming Resolution for approval of Change Order No. 1 in the amount of \$12,752.10 to the contract with National Power Rodding Corp. for the 2019 Sanitary Sewer Cleaning, Televising & Lining Project. President Weppler then asked for questions and comments and there were none.

Trustee Johnson moved to approve the confirming resolution for Change Order No. 1 to the contract with National Power Rodding Corporation, and Trustee Adams seconded. President Weppler asked for further Board or public comment and there was none. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey

NAYS: None

**ORDINANCE NO. 20-O-42: An Ordinance to Waive Enforcement of Certain Sections of the Libertyville Zoning Code During Phase 3 of the State of Illinois RESTORE ILLINOIS PLAN**

President Weppler introduced an ordinance that would allow for the temporary waiver of certain sections of the Libertyville Zoning Code to address the accommodations made under Phase 3 of the RESTORE ILLINOIS PLAN.

The temporary waiver of the zoning requirements is related to outdoor seating in order to comply with the changes to Phase 3 of the RESTORE ILLINOIS PLAN. Many of the

restaurants are interested in using tents in their temporary outdoor seating areas in order to provide protection from inclement weather. Additional guidance regarding this recent change is forthcoming from the State of Illinois and will be provided as soon as it is received. An application packet was also set-up for restaurants and Staff will expedite the approvals as quickly as possible to allow for the May 29, 2020 implementation date. President Wepler asked for comments and questions.

Staff recommended adoption of the Ordinance to promote the waiver of zoning codes to accommodate outdoor dining changes in order to support the local restaurants. President Wepler noted the need for flexibility based on individual restaurants. He added that renting or buying tents would be expensive. Administrator Amidei noted the need to review the new guidelines and rules concerning restaurants with windows that open to the sidewalk.

Mr. Duke Ross, of Main Street Social stated that he was interested in constructing a tent behind his establishment in the parking lot. He did not need for School Street to be closed off, just some of the parking spaces to allow for flexibility. He added that with the required social distancing, he would really be able to accommodate about 25-30% of the area. He stated the tent would probably be used into Phase Four of the governor's plan.

Trustee Johnson stated that logistics would need to be helpful to all restaurants and well-coordinated. Mr. Ross stated the need for two 30x30 tents to be used by his and a neighboring restaurant. He also stated that he would be happy to act as liaison between the restaurant owners and the Village Board if that would be helpful.

Trustee Garrity asked for clarification of logical locations and a timeline for the outdoor dining. He also asked if the Staff could be given authority for approval of the applications. President Wepler noted that he had received many calls from restaurant owners. Director Spoden stated that five applications had been received. Trustee Adams favored Staff giving approvals and continuing the plan until October. Trustee Moras agreed that the plan would help the business community, but he did not want to sacrifice safety by having the tents close up during bad weather.

Trustee Justice asked if there would be additional liability to the Village, but Village Attorney David Pardys stated that there would be indemnification as recommended by IRMA. Fire Chief Rich Carani stated that the tents would have flammability requirements and fire extinguishers would be required. There would also be a need for an emergency evacuation plan. To provide consistency, Director Spoden will oversee the program of outdoor dining. All Board Members were in agreement to waive tent fees to the Village.

Trustee Johnson moved to waive enforcement of certain sections of the Libertyville Zoning Code During Phase 3 of the State of Illinois RESTORE ILLINOIS PLAN to allow for outdoor dining. Trustee Adams seconded. President Wepler asked for further questions



and comments. Trustee Johnson asked Police Chief Herdegen if he approved of the plan, and he stated that he was. The motion carried on roll call vote as follows:

AYES: Trustees Johnson, Moras, Justice, Adams, Garrity, and Carey  
NAYS: None

### **PETITIONS AND COMMUNICATIONS**

President Wepler announced the following:

- The Parks and Recreation Committee will meet virtually at 6:00 p.m. on Tuesday, June 2, 2020
- The Human Relations Commission will meet virtually at 4:00 p.m. on Wednesday, June 3, 2020
- The Zoning Board of Appeals will meet virtually at 7:00 p.m. on Monday, June 8, 2020
- The Water and Sewer Committee will NOT meet on Tuesday, June 8, 2020
- The Village Board will meet virtually at 8:00 p.m. on Tuesday, June 9, 2020

Trustee Adams stated that he was glad the Village could support its restaurants and businesses. Other Members concurred.

The Civic Center Foundation Board will meet at 1:00 p.m. on Wednesday, May 27, 2020. Mr. Ross stated that he appreciated what President Wepler and the Village Board are doing to help the local restaurants.

Administrator Kelly Amidei asked for concurrence to complete the burn near Charles Brown Park. Director Kendzior stated that herbicides used have killed plants, and the dead plants could clog pumps. He noted the need to complete the prescribed burn, and he would choose an appropriate day.

Administrator Amidei, noting that even though the Village could be in Phase 4 by July 3, large groups would not be able to gather. She stated that the company contracted to do the fireworks would allow the Village to apply the funds for next year's show. Board Members concurred.

### **EXECUTIVE SESSION**

President Wepler noted the need to meet in Executive Session for discussion of the following:

- a) Closed Session Minutes, Review [5[ILCS 120/2(c)(21)]**
- b) Real Estate: Setting Price for Sale/Lease [5[ILCS 120/2(c)(6)]**
- c) Personnel: Appointment/Removal for Public Office or Attorney [5 ILCS 120/2(c)(3)]**

Trustee Johnson moved to go into Executive Session at 9:37 p.m., and Trustee Carey seconded. The motion carried on a unanimous voice vote.

**ADJOURNMENT**

The Board returned to the regular meeting at 10:23 p.m., and with no further business to come before Village Board, Trustee Johnson moved to adjourn. Trustee Moras seconded, and the motion carried on a unanimous voice vote.

Respectfully submitted,

by:  Deputy Clerk

Sally A. Kowal  
Village Clerk