

**A REGULAR MEETING OF THE MAYOR AND BOARD OF TRUSTEES
OF THE VILLAGE OF BOLINGBROOK – JUNE 12, 2012**

CALL TO ORDER

The Regular Meeting of the Mayor and Board of Trustees of the Village of Bolingbrook was called to order at the hour of 8:00 p.m., June 12, 2012, in Bolingbrook, Illinois, by Mayor Roger C. Claar.

PLEDGE OF ALLEGIANCE

Mayor Roger C. Claar requested George Foy, Commander, and Bob Adame, Senior Vice Commander/VFW Post #5917 lead the Pledge of Allegiance to the Flag.

ROLL CALL

Village Clerk, Carol S. Penning, called the roll. Present were: Mayor Roger C. Claar, Trustees Leroy J. Brown, Michael T. Lawler, Rick Morales, Sandra S. Swinkunas, and Patricia Schanks

Absent: Joseph B. Morelli

Also present were: Village Clerk – Carol S. Penning, Village Attorney - James Boan, Police Chief - Kevin McCarthy, Fire Chief - David Litton, Director of Community Development - Dennis Kowalczyk, Director of Public Works – Mike Drey, and Finance Director – Rosa Cojulun

Staff Absent: Brenda Ladipo - Human Resources/IT Director

Representing the press: No Press in attendance.

JOURNAL OF PROCEEDINGS

Motion Brown, second Swinkunas to approve the minutes of the May 22, 2012, Village Board meeting submitted by the Village Clerk.

Voice vote. Motion carried.

APPROVAL OF AGENDA/ADDITIONS

Village Attorney, Jim Boan, requested an Executive Session for the discussion of land acquisition (5 ILCS 120/2 (C) 5 & 6). He noted that there would be no announcements after the session.

Motion Swinkunas, second Morales to approve the agenda as amended.

Voice vote. Motion carried.

APPROVAL OF COMMISSION APPOINTMENTS/REAPPOINTMENTS

None

PROCLAMATIONS

NATIONAL FLAG DAY, JUNE 14, 2012: Mayor Claar proclaimed June 14th, 2012, NATIONAL FLAG DAY in Bolingbrook and urged citizens to pause on this day for the 33rd Annual National PAUSE FOR THE PLEDGE OF ALLEGIANCE and recite with all Americans the Pledge of Allegiance to our Flag and Nation. George Foy, Commander, and Bob Adame, Senior Vice Commander/VFW Post #5917 accepted the proclamation.

BILL APPROVAL

Motion Morales, second Lawler to approve expenditures submitted as Bill Listing A - Payables in the amount of \$594,290.59 and Bill Listing B - Pre-pays in the amount of \$1,963,383.22 totaling \$2,557,673.81. (Copies were made available in the Finance Dept. and Clerk's Office.)

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried.

MOTION TO ACCEPT LOW BID FROM ELMHURST CHICAGO STONE, INC. IN THE AMOUNT OF \$39,774.00 FOR 2012-13 MFT MAINTENANCE MATERIALS GROUP 1 – CONCRETE

Motion Swinkunas, second Morales to accept a motion to accept the low bid from Elmhurst Chicago Stone, Inc., in the amount of \$39,774 for the 2012-2013 MFT Maintenance Materials Group 1 - Concrete.

This motion approved the Village's 2012-2013 MFT Concrete Material bid. Three (3) bid packets were sent out and one (1) bid was returned. The sole bidder was Elmhurst Chicago Stone, Inc. Concrete is used by the Public Works Department on various road projects (i.e. curbs, catch basins, and stormwater inlets) throughout the year. The cost was \$39,774, which was \$4,774 over the budgeted amount of \$35,000.

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried.

RESOLUTION 12R-035

APPROVING SUBRECIPIENT AGREEMENT BETWEEN THE VILLAGE AND COMMUNITY SERVICE COUNCIL OF NORTHERN WILL COUNTY RE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Motion Brown, second Lawler to adopt a resolution approving a Subrecipient Agreement between the Village and Community Service Council of Northern Will County regarding the Community Development Block Grant (CDBG) funds.

This resolution approved a Subrecipient Agreement and the payment of \$36,000 of CDBG funding to the Community Service Council of Northern Will County. The funds will be used by CSC to provide Housing and Financial Counseling to qualified Village residents. The subrecipient is responsible to comply with H.U.D. reporting requirements.

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried.

RESOLUTION 12R-036

EXTENDING AGREEMENT WITH SYNAGRO FOR BIOSOLIDS MANAGEMENT

Motion Schanks, second Swinkunas to adopt a resolution extending an agreement with Synagro for biosolids management.

In 2007, the Village Board approved Ordinance 07R-062 which was a contract with Synagro for Biosolid Management Services. The company provides materials for use in the treatment and processing of sanitary waste at all three water reclamation facilities. This resolution approved a 1-year extension of the contract at no additional cost over the year. The estimated cost was \$430,000.

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried.

PC 12-14

APPROVAL OF FINAL PLAT OF SUBDIVISION FOR PHASE 1C HERRINGTON ESTATES SUBDIVISION – LARSON PROPERTY – RYLAND HOMES, APPLICANT

Motion Swinkunas, second Morales to accept Plan Commission Report PC 12-14 for approval of a Final Plat of Subdivision for Phase 1C in Herrington Estates Subdivision - Larson Property - Ryland Homes, Applicant.

Voice vote. Motion carried.

ORDINANCE 12-036

APPROVING FINAL PLAT OF SUBDIVISION – HERRINGTON ESTATES PHASE 1C (RYLAND HOMES)

Motion Morales, second Brown to pass an ordinance approving a Final Plat of Subdivision - Herrington Estates Phase 1C (Ryland Homes).

This ordinance approved a Final Plat of Subdivision for Phase 1C in Herrington Estates located off Hassert Boulevard. The original subdivision contained 80 acres. Phases 1A and 1B were developed by Kirk Homes. The development is now owned by Ryland Homes. Phase 1C consists of 9.159 acres and will be improved with twenty-six (26) residential lots. The homes will range in size from 9,500 sq. ft. to 12,700 sq. ft. The Plan Commission has reviewed and recommended approval.

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried.

PC 12.15

APPROVAL OF A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT – SHINING SMILES – 303 N. BOLINGBROOK DRIVE; NIMA NOURAHMADI, APPLICANT

Motion Lawler, second Swinkunas to accept a Plan Commission Report PC 12-15 for approval of a Special Use Permit for a Planned Unit Development for a dental office at 303 N. Bolingbrook Drive (Shining Smiles); Nima Nourahmadi, Applicant.

Voice vote. Motion carried.

ORDINANCE 12-037

APPROVING SPECIAL USE PERMIT FOR PLANNED UNIT DEVELOPMENT FOR DENTAL OFFICE – 303 N. BOLINGBROOK DRIVE (SHINING SMILES/DR. NOURAHMADI)

Motion Brown, second Morales to pass an ordinance approving a Special Use Permit for a Planned Unit Development for a dental office located at 303 N. Bolingbrook Drive (Shining Smiles/Dr. Nourahmadi).

This ordinance approved a Special Use Permit for a Planned Unit Development to allow a dental office to be located at 303 N. Bolingbrook Drive. Shining Smiles (Dr. Nourahmadi) requested to occupy 5,632 sq. ft. in the Stonebrook Place Shopping Center (f/k/a Plaza Santo Domingo) across from Menards. The property is zoned B-3, which required non-sales tax generating uses obtain a Special Use Permit. The Plan Commission has reviewed and recommended approval.

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried.

PC 12.16

APPROVAL OF AN AMENDMENT TO A SPECIAL USE PERMIT FOR A PLANNED COMMERCIAL DEVELOPMENT WITH VARIANCES AND FINAL DEVELOPMENT PLAN TO ALLOW A DAY CARE CENTER – CHILDREN OF AMERICA – 570 W. BOUGHTON ROAD; ANDRZEJ BEDNRCZYK, APPLICANT

Motion Swinkunas, second Brown to accept Plan Commission Report PC 12-16 for approval of an amendment to a Special Use Permit for a Planned Commercial Development with variances and Final Development Plan to allow a day care center (Children of America) at 570 W. Boughton Road; Andrzej Bednrczyk, Applicant.

Voice vote. Motion carried.

One of the attorneys that requested to speak regarding the day care center was not yet in attendance. Therefore, Mayor Claar suggested that the Board move into Executive Session and allow the attorney more time to arrive at the meeting.

EXECUTIVE SESSION

Motion Brown, second Swinkunas to enter into Executive Session for the discussion of land acquisition (5 ILCS 120/2 (C) 5 & 6).

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried and the meeting went into Executive Session at 8:15 p.m.

RECONVENE

Motion Swinkunas, second Brown to reconvene the regular meeting.

ROLL CALL: Yea 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Nay 0 - None

Absent 1 - Morelli

Motion carried and the meeting reconvened at 8:25 p.m.

ORDINANCE 12-038

APPROVING AMENDMENT OF SPECIAL USE PERMIT FOR PLANNED COMMERCIAL DEVELOPMENT AND DEVELOPMENT PLAN TO ALLOW DAY CARE CENTER – 540 WEST BOUGHTON/CHILDREN OF AMERICA

Motion Morales, second Lawler to pass an ordinance approving an amendment of a Special Use Permit for a Planned Commercial Development and Development Plan to allow a day care center at 540 West Boughton/Children of America.

"Children of America", a preschool and child day care facility, sought approval of a Special Use Permit and Final Development Plan to locate a facility at 570 W. Boughton Road. The applicant planned to lease 4,672 sq. ft. of space in the vacant front building running parallel to Boughton.

The applicant planned to remove fifteen (15) parking spaces on the north side of the building to install an outdoor play area.

"Kiddie Academy", located next door at 540 W. Boughton Road, recently opened a similar facility. They appeared, along with their attorney, Cathleen Keating, at the Public Hearing. They testified in opposition to the petition.

Because the hearing lasted so long, it was continued to a second date. Much of the testimony and examination of witnesses dealt with the viability of two (2) day care facilities being located next to each other. At the close of the second hearing, the Plan Commission voted unanimously to recommend approval of the Special Use Permit.

Attorney Philip Fornaro representing Baron's Holding, Inc., owner of the building that would occupy the proposed "Children of America" day care center, spoke to the Board. He presented his case as to why the Board should approve their application for Special Use with variances and Final Development Plan for the day care center. He gave a short summary of the details of the project as stated in the Plan Commission Report. Points he made were:

- The day care center should not be denied solely on the basis of competition as that would not be legal.
- An independent study produced empirical evidence that Bolingbrook was underserved by day care centers based on its population and that two (2) day care centers could co-exist and be profitable.

Attorney Cathleen M. Keating representing Katie Moore, owner of "Kiddie Academy", presented her case as to why "Children of America" should not be permitted to open in the shopping center adjacent to their location and only 100 feet from their existing space. Points she made were:

- Per the Bolingbrook Zoning Ordinance, Section 8-103(C), a Special Use Permit shall be granted "only if evidence is presented to establish...that the proposed use will not have a substantial adverse economic effect upon existing businesses in the vicinity".
- No factual finding was submitted in the Plan Commission Report regarding the above statute.
- A list of reasons was presented as to why allowing "Children of America" day care to open next to their business would severely impact them in a negative manner both economically and with enrollment.

Mayor Claar stated that he felt there was a safety concern regarding the "Children of America" day care center as they only have access to their parking lot through Boughton Road. Traffic in and out of that lot would take place during rush hours and would be very difficult and dangerous. The other day care center has access to Schmidt Road where there is a traffic light.

Trustee Swinkunas asked exactly where "Children of America" would be located in the retail center. Community Development Director Dennis Kowalczyk answered that they would be in the first building that ran adjacent to Boughton Road. The second building, which is perpendicular to Boughton Road, would be dedicated to retail businesses. Swinkunas stated

that the playground for the day care would be located in back of the second building and thought that would be a dangerous spot for children to be playing.

Andrzej Bednrczyk, owner of the retail center that proposed "Children of America" day care center, addressed the Board. He stated that plans for the playground included all necessary precautions in order to provide for the safety of the children that would be playing there plus additional safety features.

Trustee Morales asked Bednrczyk whether he had thought about how the day care center would limit future uses in the second retail building. Bednrczyk stated that he knew it would limit the type of businesses that he could rent space to in the other building, such as there would not be any sale of liquor. Attorney Fornaro added that the uses for that building would already be limited because of the "Kiddie Academy" location.

Mayor Claar stated that he usually encouraged free enterprise but questioned the move on the part of "Children of America" to locate right next to another day care center. The safety issue still concerned him regarding that the only access to the parking lot would be located on Boughton Road.

Attorney Fornaro explained that "Children of America" had commissioned studies on the area and would not take the risk and invest capital in the project if it had been determined not to be economically feasible.

Trustee Schanks stated that "Kiddie Academy" said they had not had an opportunity to complete their timeline to become established since they have only been open for four (4) months. They needed more time to build up their client base to become profitable.

Trustee Morales noted that, while Trustee Schank's statement was an issue, it was the safety factor that was more important to consider. He did not think that there should be two (2) day care centers right next to each other, especially on such a busy street. Trustee Schanks agreed with him.

Trustee Lawler also agreed that the safety of people getting out of the parking lot onto Boughton Road from the proposed day care center was the main issue and the most valid point.

ROLL CALL: Yea 0 - None

Nay 5 - Brown, Lawler, Morales, Schanks, Swinkunas

Absent 1 - Morelli

Motion failed.

QUESTIONS FROM THE AUDIENCE/PRESS

None

TRUSTEE COMMENTS

Trustee Morales thanked all the volunteers that came out for the Relay for Life event held by the American Cancer Society behind Village Hall on Saturday and Sunday, June 9th and 10th. He thought it was very inspirational to see all the people working so hard to raise money to help cancer patients.

Trustee Schanks gave details regarding the Farmer’s Market now open on Thursday near the Village Green at the Promenade. The Farmers Market will take place every Thursday through the last day of September 13th starting at 3:00 p.m. in the afternoon until 8:00 p.m. through August 16th and until 7:00 p.m. through September 13th.

Trustee Brown gave details on the 28th Annual Village of Bolingbrook Picnic being held behind Town Center on Sunday, June 24th, from Noon to 5:30 p.m.

Trustee Swinkunas gave a report on how great the 13th Annual Cavalcade of Planes was at the Bolingbrook Clow International Airport which was held on June 2nd and 3rd. She thanked all the volunteers that helped with the event. It was estimated that over 12,000 people attended. She also talked about the Police Department fundraiser being held at Gordon Biersch in the Promenade on Tuesday, June 19th, between 5:30 and 8:30 p.m. Proceeds from the event will go toward the Illinois Special Olympics.

Trustee Lawler gave information about the free Summer Concert Series offered through the Bolingbrook Park District and the Village of Bolingbrook. They will be held behind Village Hall every Wednesday evening starting at 7:30 p.m. on the Performing Arts Stage. Concerts will take place through the end of August.

ADJOURNMENT

Motion Brown, second Swinkunas to adjourn the regular meeting.

Voice vote. Motion carried and meeting adjourned at 8:58 p.m.

Roger C. Claar
MAYOR

ATTEST:

Carol S. Penning, CMC
VILLAGE CLERK