

**VILLAGE OF BANNOCKBURN
BOARD OF TRUSTEES
OCTOBER 28, 2013
MEETING MINUTES**

1. **Call to Order.** Pro-Tem Chairman Frank Rothing called the meeting to order at 7:10PM.

Pro-Tem Chairman: Frank Rothing

Trustees Present: David Ansani, James Boyle, Timothy Fisher, Daniel Orth III

Trustees Absent: David Korner

Also Present: Village Clerk Estelle Raimondi, Village Manager Maria Lasday, Village Engineer David Gewalt, Village Counsel Vic Filippini, Assistant to the Village Manager Ryan Mentkowski, Finance Director Linda McCulloch, Administrative Intern Cory Poris

Visitors: John Beslow (100 Thornapple), Paul Bloz (Terra Architects), Stuart Atkinson (3 Broadleys Court)

2. 01-10/28: **Pledge of Allegiance.** Trustee Jim Boyle led the Pledge of Allegiance.
3. **Visitors' Business.** None.
4. 02-10/28: **Report from the Architectural Review Commission's Meeting on October 22, 2013:**
- **Consider Approval of the Removal and Replacement of the Existing Roof, Located at 100 Thornapple Lane, Submitted by John Beslow.** Village Manager Lasday stated that Mr. Beslow is requesting approval to go from a cedar shake to an asphalt roof. The color will be hickory and the ARC approved it as it is zoning compliant.
 - **Consider Approval of the Installation of Exterior Signage at Bannockburn Family Wellness in the Bannockburn Green Retail Center, Located at 2521 Half Day Road, Bannockburn, Illinois, Submitted by Steve Burlison and AP POB Bannockburn, LLC.** Village Manager Lasday reported that the ARC confirmed the dimensions and the colors. It was noted there is a metal brace that prevents the sign from being centered on the space. The ARC noted that the sign cannot be centered, and approved it.
 - **Consider Approval of a Modification to the Exterior Elevation to Enclose the Existing Covered Patio Area at the Property Located at 3 Broadleys Court, Submitted by Stuart and Linda Atkinson.** Mr. Atkinson of 3 Broadleys Court introduced himself to the Village Board. Village Manager Lasday stated that the homeowner wanted to enclose a screened patio. The main issue with the request pertains to the lighting. When an ARC application is submitted, the property is checked to make sure it is zoning compliant. Upon review, all of the flood lights on the property were not zoning compliant and several coach lights did not have textured glass. Mr. Atkinson

agreed to remove 22 of 25 exterior lighting fixtures and noted some of them are not even working. A year from now he may come back to the ARC for approval for other lighting, but right now he has agreed to remove the non-compliant lighting.

It was noted that the other issue is a large soffit with the canned lights. One of the Commissioners was interpreting the code as if it was a flood light, but it is not a flood light. Flood light regulations prohibit lighting of the whole façade; however, this is not applicable to canned lights. There are no provisions for canned lights currently in the zoning code. Mr. Atkinson agreed to investigate reducing the lumens in the existing canned lighting due to some of the ARC concerns, and he will probably have to put in two new lights over the doorways to be compliant with the building code. It is noted that Mr. Atkinson agreed to perform a lot of changes to the existing lighting to accommodate the Village's "Dark at Night" requirements.

Village Manager Lasday stated that the ARC suggested that the Village Board or Plan Commission/Zoning Board of Appeals may want to consider more stringent regulations regarding canned lighting. The biggest issue on this particular property is the flood lights, and those are being removed.

Trustee Orth noted that the Village is playing "catch up" since a lot of the zoning laws have been changed since houses were built and the lighting was installed and that regulations may need to be evaluated.

Pro-Tem Chairman Rothling stated that LED lighting also needs to be evaluated in regard to zoning regulations. Village Manager Lasday advised that lumen count for LED lighting needed to be considered since so many of the newer lighting sources use LED lighting and our current regulations do not address this type of lighting. Mr. Atkinson advised that he is planning to use LED lighting when he replaces the lights. Village Manager Lasday advised that staff needs requirements for LED lighting.

- **Consider Approval of the (i) Removal and Replacement of the Existing Cedar Shake Roof to a New Architectural Shingle Roof, and (ii) the Removal and Replacement of the Existing Gutters and Downspouts, Located at 2080 Stirling Road, Submitted by Richard Pedersen.** The property owner, Richard Pedersen, will be removing a cedar shake roof and then going to an asphalt roof. He is also replacing gutters and downspouts that are currently white and will be replaced by white gutters and downspouts. There also was an issue with the lighting at this property as there is a lot of exterior lighting on the property that is not zoning compliant. The Village is requiring that all of the lighting needed to become zoning compliant if a roof is replaced. This standard was set recently when 1250 Cedarcrest replaced their roof and they were obligated to make all lighting zoning compliant. Mr. Pedersen is making several adjustments to his lighting to make sure it is zoning compliant. ARC approved it contingent on the adjustments being made to the lighting.
- **Consider Approval of a 2014 Calendar Year Schedule for the Architectural Review Commission Meetings.** Upon noting a minor change to the draft calendar proposed by

staff (the ARC noted that the meetings take place on Tuesdays, not Mondays), the ARC voted 4-0 to approve the attached 2014 Architecture Review Commission Calendar.

5. **03-10/28: Consider Acceptance of a Grant for Tree Replacement from Delta Institute Due to Emerald Ash Borer.**

Village Manager Lasday advised that the previous issues discussed by the Board had been worked out. One issue had been that the trees needed to come from a certified nursery. The nursery the Village was going to use did not have maple or oak trees so this grant can be used for oak and maple trees from a certified nursery. There is already a policy for employees to be drug free and that policy is acceptable for the purposes of the grant. The only thing that should be noted is that the trees must be watered for three years.

Trustee Orth moved, seconded by Trustee Boyle, to accept the grant from the Delta Institute. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Fisher, Orth, Rothing); Nays: None; Absent: Two (Barkemeyer, Korner).

6. **04-10/28: Consider Approval of an Ordinance Repealing and Replacing Ordinance No. 2012-27, to Create a Bannockburn Water, Sewer, and Plumbing Fee and Charges Schedule.**

Village Manager Lasday noted the memo from Finance Director McCulloch detailing the issues. The Ordinance reflects a 2.5% increase for both sewer and water to be in accordance with the Highland Park increase for water. The language in the Ordinance encompasses Utilities, Inc. as a customer, and some language was taken out regarding Lake County and that sewer fee.

Village Attorney Filippini clarified that in regard to the retail sewer agreement with Lake County, since the Village no longer has operational responsibility for it the Village will no longer be charging for it. The language concerning Utilities, Inc. reflects the agreement entered into regarding the Village's wholesale service to Delmar Woods. The changes in the rate reflect the percentage increase recommended by the Board at the last meeting. An annual meeting will be held with Utilities, Inc. The agreement that the Village and the Delmar Woods Water Company previously signed states that Delmar Woods Water Company also has to pay all connection fees. This requirement has been on the books for approximately 33 years. A check returning the remaining deposit can be prepared for them and given in exchange for an agreement that this is payment in full. Trustee Fisher asked about the increase in rates. Pro-Tem Chairman Rothing stated that the increase was just to keep up with what the Village was paying for the water.

Finance Director McCulloch advised she has received information regarding the early bond redemption and the documentation they want, specifically the redemption dates and amounts. Cash flow projections show there is not enough money in the water fund as of this date but it can be paid off in full once the IEPA reimbursements come in. Given that we are paying between 3.5 and 4% on it, she advised that if an advance was made from the general fund (even at 1% interest) it would be beneficial.

Village Manager Lasday asked if there needed to be an agenda item for the next Board meeting regarding redemption of the bonds. Village Attorney Filippini agreed that would be needed in addition to authorization to move funds from the General Fund to the Water Fund. The Notice of Intent to Redeem could be made subject to receiving those funds. However his concern is that since the funds are earmarked dollars coming from the IEPA it would be better to have those go directly to the Water Fund for the payout rather than having it go from the Water Fund to the General Fund. He advised to authorize the redemption upon receipt of the IEPA dollars and authorizing a fund advance from the General Fund to the Water Fund to fully redeem the bonds, and he can draft that as a Resolution. Trustee Fisher asked if the Finance Director needed approval to start the process. Village Attorney Filippini advised that the Village Board should direct that it happen and that the Resolution drafted will have the notice in there that it is subject to the IEPA reimbursement. The redemption period has a beginning redemption date but it does not have a window that closes. So to avoid having loan fund go the Water Fund and then the General Fund we will wait for the reimbursement dollars to go to the Water Fund to pay off the water bonds. There is a clear pass through of those dollars in that way. The advance from the general fund covers the difference between the reimbursement funds and the amount of the redemption.

Finance Director McCulloch suggested that the bonds be paid off by the highest interest amount bonds being paid off first. When the funds to pay off bonds run out, we can stop and then do another redemption again in 6 months. Trustee Fisher asked if she is advising not to take an advance from the general fund but to wait for the State to fund the IEPA loan. Finance Director McCulloch advised that if we need to defer paying off the bonds to have it unequivocally clean, then she is in favor of that. Some redemptions can be done with the current balances, and before the next Board meeting we should know if the IEPA loan funds are in the account to pay off more. Trustee Fisher suggested that Village Attorney Filippini be directed to draft the Resolution and then direct Finance Director McCulloch to notify the bank that we would like to begin to redeem the bonds. Village Manager Lasday will visit the IEPA offices when she is in Springfield to check on the status of the loan funds.

Trustee Fisher moved, seconded by Trustee Orth, to approve Ordinance 2013-20, an Ordinance Repealing and Replacing Ordinance No. 2012-27, to Create a Bannockburn Water, Sewer, and Plumbing Fee and Charges Schedule, conditioned on the Ordinance to be drafted as directed. On a roll call vote, the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Fisher, Orth, Rothing); Nays: None; Absent: Two (Barkemeyer, Korner).

7. **05-10/28: Discuss a Draft of the Truth in Taxation, Tax Levies and Tax Abatements.**

Finance Director McCulloch advised that a notice would be in the Deerfield Review regarding the public hearing to be held on Tuesday November 12th. The public will have the opportunity to come in and comment on the increase that is projected, i.e. the 1.7% CPI along with a small increase for new growth for new construction that has come on the tax rolls. For Special Service Areas 1, 2, and 17 they are exactly the same dollar amounts that they have been for the last few years. In December the Village can bring forth the abatements for the water and road bonds after the levies are approved. Even if the Village redeems the water bonds, we still have to abate them so they are not levied. For the 2010 Recovery Zone bonds, those would be paid for from the road funds, as intended when they were issued.

8. **06-10/28 Discuss the Village of Bannockburn Tree Ordinance.**

Village Manager Lasday reported that there are 165 trees on one resident's property and the scope of the EAB issue requires modification to the Tree Ordinance. Trustee Fisher stated that he felt this was an "act of God" and that residents should not be penalized by requiring replacement.

Pro-Tem Chairman Rothing advised it is similar to the buckthorn argument, except instead of taking out an invasive species, but that this is taking out invasive bugs. Village Attorney Filippini advised that this is very similar to the buckthorn issue. The Ordinance was changed in response to EAB, but now that the impact of losing all of these trees has become apparent revisiting this may be appropriate. This may be treated like the buckthorn, in that if it is not in the bufferyard it can just be removed. If we follow the approach of the buckthorn regulations with the 1:3 replacement requirements, and only did that in respect to the bufferyard, or to meet minimum opacity requirements, this might be a way to strike to balance.

Trustee Fisher stated that he has a hard time mandating the bufferyard issue for something that was not done by fault of the homeowner. He would rather see no delay on getting rid of infected trees. Trustee Orth stated that his concern is that it does change the character of the community. Village Attorney Filippini stated that it can also be structured so that if someone comes in with a plan that would trump the strict replacement requirement. The option to submit a reforestation plan will allow more flexibility for amount and timing of reforestation. Trustee Fisher advised he had a difficult time with the "double hit" of residents having the expense of both removing and replacing trees.

Trustee Orth stated that if a homeowner just lets the trees fall in the woods they may not have to be replaced. Trustee Fisher stated that many yards are arranged differently and that may not be an option for many homeowners. There are numerous lots that have a lot of open space, and if a tree falls down it will have to be removed. The Village needs to be sensitive to the cost of the removal and the cost of the replanting. He further stated that a plan such as the Village Attorney suggested may be a better option to get rid of the trees as quickly as possible so they don't act as an incubator for the bugs. If residents bring forth a plan that is more economically feasible than complying with the Tree Ordinance that gives the Board the latitude to make decisions and be sensitive to the economic impact. Pro-Tem Chairman Rothing stated that a plan for the bufferyards makes sense. If everything across the buffer is ash, there needs to be a plan submitted on how to deal with it.

Finance Director McCulloch asked if someone had 100 trees that they did not want to take down and replant, can they just let them fall? If that situation becomes a hazard, does that trigger anything else from a code perspective because there is now a hazard to which there is no response? Village Attorney Filippini advised that it is a different provision. He noted that if it is a hazard, it must be in the public right-of-way as that is the definition of a hazard. If it was in the public way, they would be subject to fines. Trustee Fisher advised that is why he would rather have residents come forth with a plan to be evaluated. The plan can give the time line and specifics of removing and replacements.

Village Manager Lasday asked if they wanted to set a time limit for how long a resident has to deal with it. There was discussion among the Board that a time limit should be submitted with the plan. Village Attorney Filippini advised that there was a 3 or 5 year limit in the Ordinance, but that flexibility can always be added. Trustee Fisher stated that he wants an amendment only in terms of the Emerald Ash Borer. Village Clerk Raimondi asked if this would apply to elm trees. Village Attorney Filippini advised that there was a separate issue for elm trees to keep it in alliance with state law.

The Village Board directed Village Attorney Filippini to amend the Ordinance, noting that it is to be repealed and replaced to keep with the codification of the Ordinance.

9. 07-10/28: **Report from the Plan Commission / Zoning Board of Appeals Meeting on October 7, 2013:**

- **Continued Public Hearing for the Consideration of Various Text Amendment(s) to the Bannockburn Zoning Code, including, without limitation, Amendments Pertaining to Definitions of Terms, Exterior Lighting, and the Keeping of Chickens as an Accessory Use, Submitted by the Village of Bannockburn.** Village Manager Lasday advised that this was on the agenda again to give the trustees time to consider the allowance of chickens on the property and the definition of a patio. Trustee Orth noted that the only outstanding issue is the definition of patio. He stated that a patio does not have walls or a roof, and to call it a structure is inconsistent. Trustee Fisher advised that it should be defined as “hardscape” as it can be made of concrete, patio bricks, or other materials. Village Manager Lasday advised it has become an issue because if a patio is considered a structure, then if a patio is over 200 square feet it triggers opacity requirements and ARC compliance, and then lighting is also reviewed. It is unclear right now if a patio requires ARC review. If someone changes the hardscape around a pool, it is covered under pools and then would go to ARC for review, including lighting.

Village Attorney Filippini stated that the issue is more of when does a patio kick in an ARC review, and also when does it trigger the bufferyard requirements. This section can be modified to include that a patio greater than 200 square feet has bufferyard requirements, while a patio of less than 200 square feet does not. ARC review would also be triggered at 200 square feet.

Village Board directed the Village Attorney to modify the Ordinance, which will include language for patio, chickens, and 2nd level patio lighting.

10. 08-10/28: **Village Engineer.**

Village Engineer Gewalt reported a rather large water main leak that was detected on a private water line for Bannockburn Office Plaza Number 3 water line, in a wooded area concealed by buckthorn. Because of the location it went undetected for several weeks but then was repaired immediately. An 8 inch valve deteriorated and eventually water started spurting out, it has been a source of water leaking for several weeks. The Village is trying to see if we can recover some of the costs, but it was on a line that wasn't metered so we may not be able to recapture those funds.

He also noted that LaQuinta Hotel has taken care of the issue with the water tank. A plumber called and he has worked with Lake Forest and the Village Engineer to come up with a plan to disconnect the tank. The permit was issued last week and the work has been done except the final work on the tank which will be filled in the spring.

11. 09-10/28: **Village Counsel.** No report

12. 10-10/28: **Village Manager Report.**

Village Manager Lasday stated that the Responsible Bidder Bill is being discussed in Springfield and that bill would limit which contractors can bid on projects and would eliminate a lot of the smaller contractors. The cost of public works projects would go up substantially in price. Village Manager Lasday plans to call everyone on the Labor Committee to ask them to vote no and also will be contacting local representatives.

Village Manager Lasday noted that the IT services RFP is being discussed by 14 communities to streamline implementation of services. Another RFP has been issued for elevator inspections has 10 communities and Lake County. This RFP is particularly important as all of southeast Lake County has never worked together to such an extent in the past. However the Village does not have to agree to the terms if we are not happy with them.

Village Manager Lasday noted that a property owner would like to subdivide his lot and he will be just under the minimum required so zoning relief would be required. It was reviewed with Village Counsel this evening. Subdividing the lot is only being considered because the smallest lot acreage would still be within the 10% specified within the code. Trustee Fisher stated there was another resident who wanted to subdivide a lot and was denied. Village Manager Lasday advised that she had spent considerable time with that resident and the lots did not meet zoning requirements to be subdivided. Village Attorney Filippini stated that there is a mechanism in place to evaluate the lots, and physical attributes of the lot determine if subdividing it is an option. Trustee Orth inquired if it made sense to subdivide into three lots that do not meet minimum requirements, or two lots that do and one that does not. Village Manager Lasday stated that the proposal is for just one lot out of three to be just under the requirements, and that makes this situation different than the previous proposal.

Village Manager Lasday also stated that there is also a landscaping request regarding a berm on Route 22. IDOT should be contacted, as there is a concern that the berm cannot be constructed on Route 22, but if the berm is constructed on the resident's property then it cuts into their building box. Trustee Fisher advised that some residents had commented that the noise from Route 22 had increased since the widening. Village Attorney Filippini advised that the resident had been offered screening previously and the resident had declined. Village Engineer Gewalt is examining the proposal from a grading perspective, and Village Attorney Filippini stated that if they want to do a grade change it can be considered by the Board, but it will start to impact their usable yard, and potentially also their building box. The lots are also all undersize already except where the original home is and there were identified easements for the berms. The original approvals need to be checked. Village Manager Lasday asked if berms would then trigger opacity requirements, and Village Engineer Gewalt will be looking into the issue. Village Attorney Filippini advised that they

homeowner would need to pay for the berm as the Village is not responsible for installing a berm.

Village Manager Lasday also advised there had been an inquiry about a dog grooming business, which was not a use allowed under the zoning code as either a permitted use or special use permit. However, if there is a retail component to it, would the business be allowed? Trustee Fisher advised that most pet retail stores now have a grooming section in the back. Village Manager Lasday advised the code was silent on this issue. Pro-Tem Chairman Rothing stated that pet retail sales numbers are huge and a dog grooming business with retail in the front should be considered a good use. Village Attorney Filippini asked if the primary purpose would be retail or grooming. If it is service, then it would not be allowed without a text amendment change. Village Manager Lasday advised it appears the primary use is dog grooming. If it is not permitted, would the Village Board be amenable to amending the code? The Board noted this could be something that with a text amendment could be favorably reviewed.

Village Manager Lasday noted that insurance issues will be on the November agenda as it is still under review. The quotes for general liability will come in the next two weeks but regarding the health insurance, the original quote was pulled by the company. The Village had been given the quote verbally, but not in writing, and so we are waiting for another quote. There is a meeting scheduled for next week to evaluate health insurance plans again.

Village Manager Lasday noted that the Metro Storage Company interested in the Sears site is modifying their plans again. Pro-Tem Chairman Rothing asked if a rental tax could be instituted. Village Attorney Filippini advised it is probably not allowed as the Illinois Constitution does not allow an occupation tax, but there may be a way of otherwise fashioning this.

Village Manager Lasday noted that the Film Ordinance was used for the first time and it worked well. She lastly noted that there had been recent communication regarding the Stirling Circle landscape improvements.

13. 11-10/28: **Village Clerk.**

Village Clerk Raimondi attended the Illinois Municipal League 100th Anniversary Conference and prepared and summarized her report regarding the conference for the Board's review.

14. 12-10/28: **Village Commissioners.**

a) *Water and Sewer Commissioner.* Trustee Fisher asked Finance Director McCulloch to add a line item for some improvements to the water reservoir to the next budget.

b) *Economic Development Commissioner.* An Economic Development meeting will be held Wednesday with businesses in town regarding the commercial waste hauling RFP. Additionally, there is a meeting Thursday with Deerfield regarding the RFP. Village Manager Lasday noted there within the Village there was 100% compliance with the survey and that provided good information to evaluate the proposals. Village Attorney

Filippini advised that there is an opportunity to extend the date of acceptance of the RFP if needed.

2. **13-10/28: Village President.**

Pro-Tem Chairman Rothing advised a hayride and sing along is being organized for Sunday December 22nd. A horse drawn wagon is being negotiated, and light refreshments including hot cider will be offered in the Open Space Shelter. The insurance company will be advised of this Village event to insure we are properly covered.

3. **14-10/28: Consideration of Approval of the October 15, 2013 Board Meeting Minutes (Subject to Minor Corrections).**

Trustee Orth moved, seconded by Trustee Boyle, to approve the October 15, 2013 Board Meeting Minutes, as corrected. On a roll call vote, the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Fisher, Orth, Rothing); Nays: None; Absent: Two (Barkemeyer, Korner).

4. **15-10/28: Consideration of Approval of the October 15, 2013 Executive Session Meeting Minutes (Subject to Minor Corrections).**

Trustee Orth moved, seconded by Trustee Boyle, to approve the October 15, 2013 Executive Session Meeting Minutes. On a roll call vote, the motion was unanimously approved. Ayes: Four (Ansani, Boyle, Fisher, Orth); Nays: None; Absent: Two (Barkemeyer, Korner).

5. **Adjournment.**

Trustee Orth moved, seconded by Trustee Fisher, to adjourn the October 28, 2013 Board meeting. On a voice vote, the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Fisher, Orth, Rothing); Nays: None; Absent: Two (Barkemeyer, Korner). The meeting was adjourned at 8:28 PM.