

**VILLAGE OF JOHNSBURG
SEPTEMBER 4, 2013 SPECIAL MEETING OF THE
PRESIDENT AND BOARD OF TRUSTEES**

President Hettermann called the meeting to order at 7:32 p.m. in the Village Hall.

Attendees

Trustee John Huemann
Trustee Kevin McEvoy
Trustee Mary Lou Hutchinson
Trustee Janice Sisk
Trustee Greg Klemstein
Trustee Rich Janusz
Village Attorney Michael Smoron
Police Chief Keith VonAllmen
Special Project Coordinator Rick Quinn

OMNIBUS AGENDA – Trustee Huemann moved to approve the Omnibus Agenda. Trustee Sisk seconded the motion. Trustee Hutchinson requested the removal of the minutes. All Trustees present voted aye on the roll on the remaining Omnibus Agenda items. Motion carried.

- Move to approve the minutes of the August 15, 2013 meeting of the President and Board of Trustees (**removed**)
- Move to approve Ordinance 13-14-13 Amending Chapter 1.07 C of the Johnsburg Municipal Code regarding Settlement of Offenses
- Move to approve Ordinance 13-14-14 Amending Chapter 8.08, Parks and Playgrounds of the Johnsburg Municipal Code regulating the use of Tobacco in Parks
- Move to approve Ordinance 13-14-15 Adding Chapter 12.10 Crime Free Rental Housing.
- Move to approve Ordinance 13-14-16 Amending Chapter 12.07 regarding Noxious Plants, Weeds and Grass
- Move to approve Ordinance 13-14-17 Amending Chapter 14 Animal Control
- Move to approve Ordinance 13-14-18 Amending Chapter 43.06 Weapons
- Move to approve Ordinance 13-14-19 Amending Chapter 8 Parks and Playgrounds- Park Hours.
- Move to approve release of retention to Glenbrook Excavating in the amount of \$1,000 for Fairview Avenue Phase II Sewer Improvement Project.

- **DISBURSEMENTS –**

• General Fund	\$181,391.00
• MFT	\$ 2,750.00
• Debt Service	\$ 340.00
• Waterworks/Sewerage Fund	<u>\$ 7,383.26</u>
• Total	\$191,864.26

MINUTES - Trustee McEvoy moved to approve the minutes of the August 15, 2013 meeting. Trustee Hutchinson seconded the motion. Trustee Hutchinson stated that she was not in attendance at the August 15, 2013 meeting however she read in the minutes that Lakemoor's Village President agreed to withdraw the Army Corp permit application related to the proposed boat launch on Old Bay Road. She stated that it was her understanding that he agreed to table the project, but he did not state that he would withdraw the permit request. Trustee Hutchinson requested clarification on the matter. President Hettermann clarified that President Weihofen stated that he would table the project but did not state he would pull the permit request. All Trustees voted aye. Motion was carried.

AUDIENCE PARTICIPATION - Jim Huemann of 1322 Old Bay Road was in attendance to express his objection to Lakemoor's plan for a boat ramp at the end of Old Bay Road. He stated that he feels the plan would be placing too much in one area. He remarked that he lives a distance away from the proposed launch but he believes both Johnsbury and Lakemoor will be inundated with complaints if the project proceeds. He added that he believes the Village should go on record objecting to the project.

Ed Sullivan of 1316 Old Bay Road stated that he is a legal resident of the Village of Mundelein but he has concerns with the proposed launch as he has experience with land use changes and feels the project is a misappropriation of land. He stated that he received some advice from individuals holding positions much higher in government than he or the Village Board hold, and they recommended that the best thing to do is to draft a resolution in opposition to the land use change and transmit it to the Army Corp of Engineers. He expressed that he hopes the Village Board will do so.

Jason Schwan of 1214 Old Bay Road stated that he hopes the Village of Johnsbury will oppose the proposed boat launch as he believes it will have a large impact on the safety and privacy of the neighborhood. He added that he feels it is dangerous to the waterway because of the boats which will have to back into the waterway adjacent to the bridge.

Peter Hudson of 1304 Old Bay Road asked the Board to oppose the proposed launch. He stated that after the last board meeting it was his understanding that the application was taken off the table. He then received a letter sent by the Village of Johnsbury to the Army Corp of Engineers requesting a delay in their decision which seems inconsistent with statements made at the previous meeting. He further remarked on an article in the paper that gives the appearance that the Village is asleep at the wheel. He stated that he feels the proposed launch is a bad idea and should be terminated as quickly as possible.

Trustee Hutchinson asked the residents in attendance to clarify if they oppose the entire project or if they are willing to work with Lakemoor to remedy their concerns. The residents in attendance stated that they are opposed to the project in any form and are not willing to work with Lakemoor on the matter.

Dee Westergard of 1320 Old Bay Road stated that she is bothered by the proposed impact to the adjacent properties and the affect it could have on property values of the homes in the area.

Sherri Dory of 1308 Old Bay Road stated that she is shocked that Lakemoor wants to place portable toilets adjacent to residential properties. She further stated that she was concerned with the impact cars pulling trailers with boats would have when turning on to and off of Bay Road.

Ed Sullivan stated that everyone is opposed to the project and added that it is not just a land use change but a change to the use of the road. He questioned if Lakemoor truly has jurisdiction of the road. Attorney Smoron explained when a road is under Township jurisdiction and an annexation takes place of the adjacent land, the annexation statute requires the annexing community to also take over jurisdiction of the road. President Hettermann explained that the land adjacent to that portion of Old Bay Road was annexed into Lakemoor prior to the Johnsbury annexation. Attorney Smoron explained that Section 7-1-1

of the Illinois Municipal Code provides that when a Village annexes a given property adjacent to a roadway, the law requires the Village to also take the road even if it is not in the legal description of the land being annexed.

A resident at 1306 Old Bay Road questioned if Lakemoor has jurisdiction of that portion of Old Bay Road, will it hinder the Village of Johnsburg's ability to extend sewers to the adjacent properties in the future. President Hettermann explained that the Village will work with Lakemoor to obtain easements if necessary.

Jason Schwan questioned why he is paying taxes to the Village of Johnsburg on land that he is being told is in Lakemoor. President Hettermann stated that the matter would have to be looked into. Mr. Schwan questioned if Lakemoor has a ten foot road easement on his property? Attorney Smoron explained that a road can become a public road by either 1) a formal conveyance through a deed, or 2) by the public traveling over it for period of twenty years resulting in an easement by prescription which would be made up of the area that is the road itself and the area adjacent to the road for maintenance of the road.

Mr. Hudson stated that different maps of the area show the road situated in different jurisdictions.

Richard Wright of 1310 Old Bay Road stated that for many reasons the residents object to the project and he questioned if the Village Board agrees with the position of the residents. President Hettermann stated that the Board will be considering a resolution regarding the matter later in the meeting.

Virginia Spengel of 1314 Old Bay Road stated the adjacent properties used to be summer homes and even at that time Pistakee Bay and Bay Road were considered to be the finest properties on the Chain. Now the homes are all prestigious homes and the owners are paying high taxes. She expressed concern that the road will need to be widened to accommodate the proposed boat launch and the Village of Johnsburg would have to pay to widen it. She stated that there is more to consider than what Lakemoor wants.

PRESIDENT'S REPORT – President Hettermann discussed Saufen und Spiel weekend and all of the associated activities including the Chief's Challenge 5K walk/run event to raise funds for Special Olympics being held on Saturday.

COMMUNICATIONS AND PETITIONS

BOAT LAUNCH RESOLUTION – Trustee Huemann moved to approve a resolution regarding the boat launch proposed by the Village of Lakemoor at the end of Old Bay Road. Trustee McEvoy seconded the motion. Trustee Huemann reported that he was in attendance at a meeting held by Lakemoor's Village President regarding the proposed launch. He expressed concern that Lakemoor is attempting to place a square peg in a round hole in this matter and the proposed location is inappropriate. Trustee Huemann stated that the road is in a state of limbo and police dispatchers are unsure of the jurisdiction of the homes along the road. He expressed concern with the parking that is being proposed in front of homes along the road and the challenges of trying to launch a boat in the location. He added that the homes are situated on some of the most valuable property in the Village and therefore he feels the launch is an inappropriate use for the area. Trustee Huemann stated that he is in support of the resolution.

Trustee McEvoy stated that he was also at the meeting and he feels that Lakemoor is attempting to create a commercial operation in a residential area. He stated that he lives around the bend and has an appreciation for living on the water. He explained that when you pay high taxes to live on the water you want to be able to show off your home. He noted that the two homes at the end of the road would have no place for guests to park when visiting. He stated that he supports the resolution

Trustee Hutchinson expressed concern with the pursuit of the resolution at this time. She explained that she has spoken with President Weihofen several times and he expressed that he did not want to upset the residents and was willing to table the project and work through everyone's concerns. She stated she has never heard that the project was going away forever. President Hettermann concurred that the commitment was to take the project off the table at this time. He explained that President Weihofen needs to have the support of his board on any decision made and he is very sensitive to the residents' concerns. President Hettermann stated that he will continue to work with President Weihofen. He added that at the last meeting he made a commitment to copy all correspondence to the residents which has been done.

Trustee Hutchinson stated that it is her understanding that two letters were sent to the Army Corp of Engineers which explained the residents' concerns and expressed that we are supporting our residents and want the concerns resolved. She added that we do not want the project to go forward as currently proposed and are negotiating with the Village of Lakemoor. Trustee Hutchinson stated that an article then came out in the paper which indicated that Lakemoor was moving ahead with the project therefore she spoke with President Weihofen again who assured her that he was tabling the project to work through the residents' concerns. She stated that now she is hearing from the residents that the only way to resolve it to their satisfaction is to completely eliminate the project. She questioned if anyone has asked Lakemoor what it will take to eliminate the project. Trustee McEvoy stated that it will take a vote by their board or the Army Corp turning down the permit application. Trustee Hutchinson stated that she does not wish to mislead the residents that the passage of a resolution will eliminate the project. Trustee McEvoy stated that the resolution is to show our residents that although there may be circumstances beyond our control, we support their position. Trustee Hutchinson stated that the Village has already sent two letters that express that.

Trustee Hutchinson stated that she spoke with Mr. Hall at the Army Corp of Engineers and asked if anyone else on the board spoke with Mr. Hall. The board indicated that they had not. Trustee Hutchinson reported that she explained to Mr. Hall that the Board would be discussing the matter and considering a resolution and asked him what effect a resolution would have. She was informed that unless the resolution would address something new, it would not have a lot of impact as the Army Corp of Engineers typically does not stop a project. Trustee McEvoy concurred that since it is outside of the twenty day public comment period, he expects that it won't have any effect. Trustee Hutchinson questioned why then is the resolution being sent to the Army Corp of Engineers.

Trustee Janusz stated that he feels the resolution is a very strong document that states we are adamantly opposed to the project. Trustee Janusz added that he believes the resolution will make it clear that we do not want this for our residents and if Lakemoor goes ahead with the boat launch it will create some very bad feelings between him and the Village of Lakemoor. Trustee Hutchinson expressed concern that the resolution may hurt our negotiations with Lakemoor when we should be trying to work with them. Trustee Janusz stated that the resolution will make it clear to Lakemoor to not move forward and he would be very surprised if they go ahead with the project. Trustee McEvoy questioned how the resolution will do a disservice. Trustee Hutchinson explained that she has not heard anyone from Lakemoor indicate that they will completely stop the project.

Trustee Huemann stated that he expects the resolution to go to both the Army Corp and Lakemoor. He expressed that he is distressed because he feels we would not have handled this matter in the manner Lakemoor has. He stated that if Johnsburg were pursuing this project, we would be in front of their board or staff submitting plans and involving the impacted residents to determine if the project was appropriate well before money was being spent to move the project forward. Trustee Huemann stated that Johnsburg did not know anything about the project until approximately three weeks ago. He remarked that he respects Lakemoor and likes their mayor but he does not feel this is how neighbors should be dealing with

neighbors. Trustee Hutchinson stated that the idea of pursuing improvements at the end of the road was brought up by Lakemoor years ago with some of the adjacent residents in conjunction with road improvements.

Trustee Hutchinson stated that she has reservations about the resolution. She explained that she wants to help the residents but does not believe the resolution is the correct way to go about doing it. Trustee Hutchinson suggested that someone should have a discussion with the Village of Lakemoor about what it will take to stop the project. Trustee McEvoy stated that he believes the resolution will help facilitate those discussions and although it won't stop the project he does not believe it will be detrimental to the Village's efforts to stop the project. He suggested to Lakemoor that they approach other ramp owners on Pistakee Lake to work out a deal to enable their residents to launch their boats. Trustee Hutchinson stated that negotiating with Lakemoor on behalf of the residents and looking at alternatives will be more effective.

Trustee Janusz concurred with Trustee McEvoy's statements and added that if President Weihofen hasn't gotten the message clear to take back to his board that we don't want this project and still proceeds, there will be a lot of problems in the future between Johnsburg and Lakemoor. He added that he is not willing to work on this matter as we don't want it. Trustee Hutchinson explained that she is not opposed to the residents' position she is opposed to the means we are pursuing. Trustee Janusz expressed that he wants the resolution to be sent to Lakemoor and the Army Corp of Engineers.

President Hettermann clarified that the Village of Lakemoor has seen the resolution and President Weihofen understands our position. He explained that the Village of Johnsburg does not have the authority to stop the project. He stated that we are doing everything we can to express the concerns of our residents through the letters sent to the Army Corp and the resolution is just another means of doing that. President Hettermann stated that we will continue to work with the Village of Lakemoor on this matter and emphasized that President Weihofen is sincere in his efforts. He pointed out that President Weihofen has to answer to his residents and board just as we do.

Trustee Huemann recommended that the resolution also be sent to Senator Althoff, State Representative Jack Franks, the Fox Waterway Agency, IDNR and the McHenry County Board via Board Member Bob Marten and the Chairperson.

Trustee McEvoy stated that if Lakemoor were in our position, they would be doing the same thing. Trustee Janusz stated that if Lakemoor had brought the matter to our attention sooner in the process we could have gotten together a long time ago about this matter. President Hettermann clarified that a few years ago a meeting was held with President Weihofen to clarify the jurisdiction of the road. At that time President Weihofen expressed that he did not want to give up the road as it provided Lakemoor their only access to the Chain of Lakes. Trustee Huemann iterated that if the tables were turned we would not have handled the matter in the same manner as Lakemoor.

Trustees Janusz, Huemann, Sisk, Klemstein and McEvoy voted aye in support of the resolution. Trustee Hutchinson voted no. Motion carried.

ADJOURNMENT - Trustee McEvoy moved to adjourn the meeting. Trustee Janusz seconded the motion. All Trustees present voted aye. Motion carried at 8:44 p.m.

Respectfully Submitted

Claudett E. Peters
Village Administrator