

questioned the increase in appropriations for vehicles and projects included for the police department. Village Administrator Sofiakis explained that although there were no vehicles budgeted for the fiscal year, funds are being included in the appropriations in the event that vehicles need to be replaced due to unforeseen circumstances. She added that the same applies for police department projects. Trustee Von Allment questioned the amount included for snow removal in the general fund as there were no funds budgeted. Ms. Sofiakis explained that snow removal costs were included in the MFT budget but additional funds are being included in the general fund's appropriations in the event of unexpected cost overruns. All Trustees present voted aye on the roll. Motion carried.

PICKELBALL FENCING— Trustee Fouke moved to accept the bid from C & I Fence for pickleball court fencing at Sunnyside Park. Trustee Letzter seconded the motion. Village Engineer Tim Hartnett reviewed the anticipated construction timeline and discussed the acoustifence included in the proposal at a cost of \$30,000. He explained that given the proximity of the courts to homes, it could be omitted and included at a later time if deemed necessary or alternatively landscaping could be included to address any sound concerns. Trustee Fouke clarified his motion is to accept the bid without the acoustifence. Trustee Letzter concurred with the clarification. All Trustees present voted aye on the roll. Motion carried.

PICKELBALL PAVING – Trustee Von Allmen moved to accept the bid from Chicagoland Paving Contractors, Inc for the pickleball court surface. Trustee Letzter seconded the motion. All Trustees present voted aye on the roll. Motion carried

UNFINISHED BUSINESS

ORDINANCE 25-26-03 AMENDING SECTION 16, CONDITIONAL USES - President Hettermann explained that Mr. Oliver informed him that he wished to be on the agenda to provide a status update on the proposed Hidden Harbor development however his attorney stated that he would like a vote by the Board on the TIF term sheet. Mr. Oliver added that he is also seeking approval of Ordinance 25-26-03 providing text amendments to the Village's Zoning Ordinance to include vehicle condominiums as a conditional use in the B-2 zoning district. He stated that he needs action on the ordinance to justify spending more capital on his project but added that he is not seeking board action on the requested zoning for his proposed development.

Trustee Hagen questioned why Mr. Oliver is separating the approvals. Mr. Oliver stated that he has spent a lot of money to date and needs to know that vehicle condos will be an allowable use in the Village. He stated that he has raised half of the funds he needs but lenders will not approve him for a loan without some approval from the Village.

Mr. Oliver's attorney, Matt Welch, stated that the ordinance is not specific to the development. He added that he made additional modifications to the ordinance to include storage items in the vehicle condos and removed the references to Vehicle Clubhouse Display Facility because the definition was previously removed. Trustee Sylvanus questioned what requirements are being proposed for a parcel to be considered for the zoning. Mr. Oliver stated that the use is restricted to properties of at least 15 acres in size in a B-2 zoning district.

Trustee Hagen expressed concern that the Village still does not know what the plan will be as there are many outstanding items that have yet to be addressed. Mr. Welch stated that Mr. Oliver is only requesting approval of the overall regulatory structure. Trustee Hagen expressed concern that once approved, the Board cannot make changes as Mr. Oliver's project progresses.

President Hettermann questioned the risks to the Village if the board acts on the proposed text amendment. Attorney Smoron stated that the Village is at risk as the act is a legislative decision and once

approved it provides assurances, which is why Mr. Oliver is asking for Village to approve the ordinance so that he can pursue financing. Mr. Welch stated that approval of the text amendment will not grant approval to Mr. Oliver, it only provides the structure of the ordinance. Mr. Smoron stated that in acting on the ordinance, the Village is taking a legislative action and even though it is not proposing the use to be a permitted use, it does provide that if the petitioner meets certain conditions, it shall be granted.

Trustee Von Allmen questioned who authored the ordinance. Ms. Sofiakis explained that the Village authored the initial ordinance presented to the Commission but it has since been modified by the petitioner and more recently modified again by the petitioner's attorney.

Trustee Von Allmen asked for clarification regarding the case in Chicago Heights which established that if a special use is provided for in a given zoning district, the city did not have the flexibility to simply turn a request down if it deemed it to be inappropriate on property. Attorney Smoron explained that once a special use is established in a district, it is a legislative finding that it is appropriate if the proposed special use meets the criteria.

Trustee Von Allmen questioned why the request is being made in the B-2 zoning district. Ms. Sofiakis explained that Mr. Oliver's development proposal is challenging as you typically see the use in industrial parks however the location of the property is not suited for industrial zoning.

Special Projects Coordinator Rick Quinn pointed out that recent changes proposed by the petitioner makes the language even less restrictive as it relates to storage. He questioned how the Village can prevent people from storing parts for a car in the units and the property turning into a junk storage yard. Mr. Oliver offered that additional restrictions will be addressed in the bylaws. Mr. Quinn stated that he is concerned that the language is very vague.

Mr. Oliver's architect, Adam Levey, stated that there will be another public hearing to further address concerns. Mr. Smoron clarified that there will not be another public hearing as the hearing before the planning and zoning commission has concluded.

Trustee Hagen stated that this is just one component of several issues that are still outstanding. He added that he understands Mr. Oliver's predicament but that doesn't make it a Village predicament. Mr. Oliver stated that he has taken the development as far as he can without entitlements.

Trustee Von Allman expressed concern that the proposed ordinance is written in a manner solely benefiting Mr. Oliver's development. He further questioned if the B-2 district is appropriate. Attorney Smoron stated that Mundelein included the use in its industrial zoning district. Ms. Sofiakis reiterated that the industrial district is more suitable for the use but the property's location is not suitable for industrial zoning.

Trustee Fouke moved to approve Ordinance 25-26-03 Amending Section 16, Conditional Uses to add Section 16.9 Vehicle Condominiums of the Johnsburg Zoning Ordinance. Trustee Letzter seconded the motion. All Trustees present voted aye on the roll. Motion carried

TIF TERM SHEET - Mr Welch reviewed the proposed TIF term sheet and discussed the TIF process. He stated that Mr. Oliver is asking the Village to allow him to be reimbursed for the cost to establish the TIF. He added that he understands that the Village wants TIF dollars to go towards public improvements and Mr. Oliver wants to meet that requirement but if the public improvements do not get him to the \$7.3 million in TIF funding he is seeking, he wants the latitude to use the funds however he sees fit. Mr. Welch stated that Mr. Oliver understands if any changes are required of Salem Avenue, the matter must go back through the public hearing process before the Planning and Zoning Commission.

Mr. Welch stated that the proposed assignment language is intended to prevent Mr. Oliver from selling without the Village's approval prior to the issuance of the certificate of completion. He reviewed the proposed eligible cost and stated that the TIF statute has a list of what TIF funds can be used for but the Village can be more restrictive. He stated that he understands the Village wants to limit TIF reimbursement to public improvements but the GAP analysis shows there is a \$7.3 million gap in funding for the project and so long as the public improvements will enable Mr. Oliver to obtain \$7.3 million in TIF funding he is okay with that limitation. Mr. Welch stated that in order to meet that threshold, they are adding land acquisition as an eligible cost along with any engineering, architectural, legal and other soft costs associated with the establishment of the TIF.

Mr. Oliver stated that he plans to be ready as soon as he receives all agency approvals. He again acknowledged that if any agency approvals affect access on Salem Avenue or other aspects of the plan, he will be required to return before the Planning and Zoning Commission and if the issue(s) cannot be resolved, the Village can terminate the Redevelopment Agreement (RDA). Trustee Sylvanus questioned how long before the RDA will be presented to the Board. Mr. Smoron stated that the RDA will be presented after the TIF is established which can be in as little as 4-6 months but typically takes 6-8 months. Trustee Sylvanus questioned if changes can still be made until the RDA is approved. Mr. Welch stated that changes can be made but Mr. Oliver is working in good faith that the Village will be agreeable to the \$7.3 million request. Mr. Oliver stated that the term sheet just starts the process and is not a legally binding document.

Mr. Oliver stated that he proposes to pursue a pay as you go TIF and the Village is not guaranteeing the TIF. Trustee Hagen questioned how expansion of the harbor is a public benefit. Mr. Oliver stated that boats will be able to pull in and stop and park at a transient pier and go to the restaurant. He explained that he will have 16 private slips but all others will be transient. Mr. Oliver stated that there is a chance that the riverwalk will be deeded to the Village but acknowledged that the ramp is private.

Trustee Hagen questioned how offsite improvements such as utility relocations are public. Mr. Oliver stated that TIF allows funds to be used on property that is challenged with costs. He explained that the IDNR is holding firm on enforcing the seawall violation therefore he will remove the violation and use piers instead of land to accommodate the riverwalk. Trustee Hagen questioned if some of the public amenities will be affected. Mr. Oliver stated that they will not be affected. He added that he will continue to work with the IDNR regarding the violation and explained that the encroachment is pie shaped measuring 28 feet by the bridge and tapering to zero at the harbor. He expressed that he is confident that he will not need to remove the entire depth of the encroachment. He stated that the riverwalk will tie into the pathway on Chapel Hill Road. Trustee Hagen stated that Mr. Oliver proposes to use the funds for public improvements but because there are so many outstanding issues, it is unknown if many of the improvements will be impacted and the Village may lose much of what was agreed to. In that regard, he questioned what the TIF agreement is predicated upon.

Trustee Sylvanus questioned if the issues will be resolved by the time the RDA is finalized. Mr. Oliver stated that conversations are continuing with all agencies. President Hettermann stated that Mr. Oliver will not receive any additional approvals until all the other agency issues are resolved. Trustee Hagen concurred but added that agreeing to the TIF term sheet is problematic because everything keeps changing. He questioned the public benefit if the project does not include the public amenities.

Trustee Hagen questioned if the RDA is binding. Attorney Smoron stated that it is binding and will have to be voted on by the board therefore it should address what will happen if the public amenities go away.

Trustee Hagen questioned what happens if the project is built and five years later goes under. Mr. Welch stated that the lenders will foreclose on property and can request to assume TIF.

ADJOURNMENT – Trustee Fouke moved to adjourn the meeting. Trustee Sylvanus seconded the motion. All Trustees voted aye on the roll. Motion carried 9:42 p.m.

Respectfully Submitted,

Claudett Sofiakis
Village Administrator