

TOWN OF CORTLAND
Town Hall
59 S. Somonauk Road
Cortland, IL 60112

BOARD OF TRUSTEES
Committee of the Whole
July 14, 2008
7:00 p.m.

Mayor Seyller called the regular meeting of the Board of Trustees to order at 7 p.m. Roll call taken by the Clerk showed as present Dan Milroy, Mike Siewierski, Brad Stone, Chuck Lanning and Shawn McAllister. Shown as absent was Ben Suppeland. Quorum was present. Also present were Parker Johnson, Town Attorney, Walter Magdziarz, Zoning Administrator, and Susan Dockus, Treasurer.

Mr. Lanning moved and Mr. Stone seconded a motion to approve the agenda as amended to include speakers from De Kalb School District 428. Unanimous voice vote carried the motion. Mayor Seyller introduced Mr. Jim Briscoe, Superintendent and Mr. Mike Verbic, School Board President.

Mr. Briscoe thanked the Board for the opportunity to speak and stated that he has been working for the District for two weeks. He reported that he met and spoke with Mayor Seyller and reviewed the processes to date in relation to the creation of the proposed school lot and intergovernmental agreement. He brought a rendering of what the new Cortland Elementary School will look like. He stated that he will provide a larger picture with a layout of the school and roads. The rendering will be left at the Town Hall. Mr. Briscoe stated he likes this town hall; it is similar to the area in which he was raised in Wisconsin. He reported that the calculations for water usage fees have been re-evaluated and the amount could be \$40,000 to \$60,000, and has come to an agreement with the Mayor that of the current amount of impact fees held by the Town that \$80,000 of that be kept by the town to cover associated costs of sewer and water. When the ceremony is held the Town will submit \$170,000 at the ground breaking ceremony. Mr. Briscoe stated that he feels the school will do a lot for the community. He has looked at the Town's comprehensive plan and feels there are positive things happening. He reported that the intergovernmental agreement needs some finalized language, which is being worked out. He asked to be called if he is needed and he will come and update the Board on projects. Cortland Elementary School will be the first building completed out of the referendum dollars. This school will serve as a model for the other De Kalb schools that need to be built and/or renovated.

Mr. Verbic reported the building footprint changed because of community input. It is shaped to fit the needs of teaching and educating children.

Approved: 8-25-2008
Attest: RJ

Mr. Briscoe stated that the Facility Planning Committee is still active. Mayor Seyller asked if Mr. Lanning wished to continue to serve on this committee or move it on to someone else. Mr. Briscoe stated it was important to have a Cortland representative, whoever that may be. It is critical to have someone attend these meetings. The plan will need the support of Cortland. The next meeting is Tuesday, 6:30 p.m. July 22 held at the Education Center, 901 S 4th Street.

Mr. Briscoe said there will be a need to discuss what they will do with the current building. They will review their (School District 428) needs before making a commitment. He doesn't see why the building could not be used in a partnership situation.

Committee of the Whole Discussion

Review IDOT Audit Report No. 55

Mr. Lanning moved and Mr. McAllister seconded a motion to recommend approval of the IDOT Audit Report dated June 27, 2008 covering the period beginning January 1, 2007 and ending December 31, 2007. Aye vote carried the motion.

During discussion Mayor Seyller stated that the intention is to place this item on the consent agenda. Mr. Milroy felt that it should not be included on the consent agenda as there is no comment in the audit that the town has a refund obligation of \$5,854.73 to the fund. It was pointed out that there is a comment on page 5 of the Auditor's Comments sheet that the 2007 Maintenance Expenditure Statement was not on file at the time of the audit and that the Town would be sent a letter concerning item that needed correction.

Maple Park Boundary Agreement

Mr. Magdziarz addressed the board regarding the proposed boundary agreement. He reported that this document is an attempt to provide a response back to Maple Park on the draft. The objective was to take a hands-off approach to the road (Hinckley Road). Whoever (Cortland or Maple Park) gets there first takes the responsibility for those issues. Hinckley Road is an issue with this agreement. When an annexation takes place the municipality annexes the entire width of right-of-way to the other side of the road. Hinckley Road occupies a prescriptive easement – the property owners own to the center of the current road. At the present time, no right-of-way has ever been dedicated. It is best to take care of this prior to development pressure. In the current draft, the properties on the west side of Hinckley Road are expected to have access to the "Simmons alignment" that would extend Airport Road south to the railway along the west side of the properties. Therefore, the properties on the west side of Hinckley Road would not need access to Hinckley Road if the "Simmons alignment" were to occur and should not be expected to participate in the costs of any improvements to Hinckley Road in the future.

Mr. Magdziarz stated that the boundary in the agreement is set by the FPA agreement. They, Maple Park, have political reasons why they want a boundary agreement. As far as who gets jurisdiction of Hinckley Road it would be whoever gets there first gets jurisdiction. The Maple Park document (version) identified Cortland as the responsible municipality. Cortland wishes to offer a different perspective.

Change in item #5 – Mayor Seyller stated he would like to see language that attaches the improvement responsibility to a recorded plat, not just an annexation.

Mr. Magdziarz noted that annexation identifies the transfer of jurisdiction immediately. Mr. Milroy stated to place a condition in a boundary agreement would not be the best solution; we should not add language that is contrary to accepted practice. His opinion is to go with the language presented.

Mr. Magdziarz - Would need language that drilled down to the protocol for transferring jurisdiction from one community to the other and require annexation agreements by both communities to include terms for design, construction, and maintenance of Hinckley Road.

Mr. Lanning recommended that the road improvement issues in the annexation agreement be addressed as a new item. Seconded by Mr. McAllister. Unanimous voice vote carried the motion. This item will be addressed again on July 28.

Reimbursable and Past Due Bills Due to Town

A request made by Mr. Milroy resulted in the summary compiled by Mrs. Dockus.

Mr. Milroy stated that in past meetings there has been discussion to consider the waiving of fees of two residents. He believes that this is singling out and completely discriminating against others. This is why he asked for the agenda item.

Discussion revolved around an applicant's acknowledgment of total fees that they are agreeing to pay when applying for certain types of permits. It is believed that they do not know the extent of the possible fees and are then taken back when they receive the billings.

Discussion ensued about the two residents once again.

Mr. Milroy asked, if you take the person out of it, if anyone who owes us (the Town) money comes to us with a hardship should have their fees abated?

Mr. Suppeland's suggestion (June 23) to have the Town draw up an agreement that at the sale of the property (Somonauk Road) the bill will be paid was revisited.

Mrs. Dockus stated that the North Avenue property has a bill pending of \$3,000 which has not been billed.

Mr. Milroy asked why the bill had not been sent. Why did you feel it required board action?

Mrs. Dockus stated that she had no payment agreement; the subject was discussed last November 2007 with an unclear board discussion/resolution.

With regard to zoning variances, the code was reviewed with the Board and payment agreements are not required or necessary as the code is specific to the fees to be charged to an applicant.

Mr. Milroy stated in the course of doing Town business the resident is to be billed for the costs of the variance request. Mr. Milroy felt that this discussion, while educational for all regarding the amount of past due bills is a moot issue as there is no formal complaint as the resident has not ever received a bill. Once that is done the resident has the ability to make a complaint known. The Board is having a discussion regarding something that has not yet been protested.

Mr. McAulister stated that he too, believes the bill should be sent.

Attorney Johnson stated his opinion that no one should be blindsided by costs. A fee structure could be made with regard to class of applicants; set a not to exceed fee; set the fee high because the process is the same regardless of the size of the project.

Conclusions:

A bill will be sent for the North Avenue zoning variance billing.

The Mayor will get an estimate of cost of creating an agreement that could be executed and recorded against the Southauk Road property.

Mr. Milroy stated that the uncollected fees are approaching \$300,000 and asked do we (the Board) want to go after them or just follow the process and go forward as it exists?

Board is in consensus that moving forward to negotiate amounts for types of service from contracted staff in order to allow the public an estimate of what the costs may be. Mayor Seyller suggested an escrow account to the town as a spend-down account for reimbursables when an application is made.

Mr. Milroy stated the Board needs to address the process for reduction in bonds as well. Mr. Milroy will take the lead in attempting to get a revised system in the code.

PC08-7 Recommendation (Definitions Development)

Mr. Magdziarz reported that this is an addition of a definition of "development" as stated in the storm water management ordinance and the Planning Commission recommended adding it to this part of the ordinance.

Discussion – why not just reference the storm water management section of the Town Code with the definition of "development" for enforcement issues rather than creating a definition?

Attorney Johnson stated he would check to see if there is a reason this reference cannot be completed.

Mr. Lanning moved to forward to the board for acceptance PC08-7, seconded by Mr. Siewierski. Unanimous voice vote carried the motion.

An Ordinance Amending Title 9 (Zoning Ordinance) of the Cortland Town Code (Section 9-2-2, Selected Definitions)

Approved: 8-25-2008
Attest: RJ

Mr. Lanning moved and Mr. McAllister seconded a motion to forward acceptance of ordinance to the Town Board. Voice vote carried with one nay.

PC08-8 Recommendation (Day Care Centers)

Mr. Magdziarz stated that this recommendation covers various amendments to the zoning ordinance. Pinnacle Construction has a prospective customer for tenant space in a building in the commercial district. However, the code currently does not allow Day Care Centers in commercial areas.

Mr. Lanning moved to recommend this be moved forward for acceptance by the Board, seconded by Mr. Siewierski. Voice vote carried the motion.

There was discussion regarding Day Care Homes and Center. Mr. Magdziarz using the definition of DCFS stated, if operated out of someone's house for more than 8 children there is no limitation to the number of children living there.

There was discussion regarding the potential of changing the definition. Mr. Magdziarz stated he would not recommend that.

An Ordinance Amending Title 9 (Zoning Ordinance) of the Cortland Town Code (Day Care Centers)

Mr. McAllister moved to recommend that the ordinance be forwarded to the Town Board for approval, seconded by Mr. Lanning. Unanimous voice vote carried the motion.

PC08-9 Recommendation (Amendment Robinson Farm Phase II)

Mr. Magdziarz reported that the Town Board previously approved a Special Use Permit which has been amended twice. As part of the last amendment a number of conditions were applied to the uses and types of uses that could be included in the building along Somonauk Road. One of those was a maximum of 8,000 square feet or any single use, the intent is trying to keep space at a reasonably small scale to keep compatible with the neighborhood. An amendment is being requested because the applicant needs more than 8000 square feet for the day care center. Mr. Magdziarz did not feel that amending the use for a day care to increase the amount of square feet would be a negative impact.

Condition f of Exhibit C is to provide for an exception of a day care center and increase the maximum square feet of 8,000. This is the only change proposed.

Mr. Lanning moved to forward the recommendation to the Town Board for acceptance; seconded by Mr. McAllister. Unanimous voice vote carried the motion.

An Ordinance Amending the Special Use Permit for a Planned Development for The Neighborhood at Robinson Farm (Robinson Farm PUD Phase 2)

Mr. Lanning moved Mr. McAllister seconded a motion to move the ordinance forward for approval. Unanimous voice vote carried the motion.

Development Agreement Between the Town of Cortland and Pinnacle Construction & Development

Mr. Magdziarz presented the draft document to the table. The document is identifying a \$13,000 credit for tap-on fees for the building – currently not included in the draft; provide the fixed fee for the building application. The Developer has raised concern that the Agreement is specifically written for a day care center being provided in the building. Pinnacle would like consideration of excluding that language because they cannot guarantee that they will land this tenant.

Asking for an indication whether Mr. Magdziarz and Attorney Johnson can proceed with working on this document, consensus was granted.

Three items to be changed include the \$13,000 tap-on fee credit, remove day care center references, and determine the schedule of building permit fees.

Completion Agreement Between the Town and Fidelity and Deposit Company of Maryland (F&D)

Items not included are: any work on Suppeland Park and not building the bike path. The parties agree on the disputed energy monies – it will be split down the middle (\$26,000). Approval of this agreement will get the town out of the bankruptcy.

Mr. Milroy moved to recommend approval, seconded by Mr. Siewierski. Unanimous voice vote carried the motion.

Unfinished Business

Ratify Illinois Elevator Safety Program Agreement

Mr. Lanning moved to ratify the submittal of the IL Elevator Safety Program Agreement, seconded by Mr. Stone. Unanimous voice vote carried the motion.

This agreement was initially submitted by Mr. William Dettmer of ICCI on behalf of the Town of Cortland. The language in the document requires an authorized agent as the signatory. Therefore, the ratification is necessary and Mr. Dettmer will be instructed to forward the document for Board approval for 2009.

Approve Completion Agreement Between the Town and Fidelity and Deposit Company of Maryland (F&D)

Mr. Lanning moved and Mr. Stone seconded a motion to accept and authorize the Mayor and Town Clerk to execute the agreement.

Roll call vote:

Yeas: Trustees Milroy, Siewierski, Stone, Lanning and McAllister

Nays: None

Absent: Trustee Suppeland

5 yea; 0-nay; 1-absent; motion carried

A 2008-03

President's Report

Mayor Seyller reported the NIMA meeting on July 17 will be held at Rock Falls. The meeting in June with Congressman Foster went well, although there is currently no plan that he can identify to help the Town. He is working the City of De Kalb and the airport issues. The Township Officials meeting is August 5th. Call mayor for details if interested.

Adjourn

Mr. Lanning moved and Mr. Stone seconded a motion for adjournment at 10 p.m. Unanimous voice vote carried the motion.

Respectfully submitted



Cheryl Aldis
Town Clerk