



MINUTES

President and Board of Trustees
Village of Arlington Heights
Board Room

Arlington Heights Village Hall
33 S. Arlington Heights Road
Arlington Heights, IL 60005

April 17, 2023

7:30 PM

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

- A. Presentation of Colors by Boy Scout Troop 32
chartered by First Presbyterian Church

III. ROLL CALL OF MEMBERS

President Hayes and the following Trustees responded to roll: Scaletta, Canty, Schwingbeck, Bertucci, Tinaglia, Grasse, LaBedz, and Baldino.

Also present were: Randy Recklaus, Hart Passman, Rob Horne, Michael Lysicatos and Becky Hume.

IV. APPROVAL OF MINUTES

- A. Village Board 04/03/2023 Approved

Trustee Mary Beth Canty moved to approve. Trustee Tom Schwingbeck
Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Canty, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck,
Tinaglia

Abstain: Bertucci

V. APPROVAL OF ACCOUNTS PAYABLE

- A. Warrant Register 04/15/2023 Approved

Trustee James Bertucci moved to approve in the amount of \$2,060,185.29.
Trustee John Scaletta Seconded the Motion.
The Motion: Passed
Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta,
Schwingbeck, Tinaglia

VI. RECOGNITIONS AND PRESENTATIONS

A. Recognition of Outgoing Trustee Mary Beth Canty and Trustee John Scaletta

President Hayes honored Trustee Canty as a valued Trustee and for the diversity of thought she brought to the community and Village Board. He said he looked forward to working with Ms. Canty in her new role as Illinois House Representative.

Trustee Canty said she learned how much the Board members cared about the community by being a member of the Board. She said she appreciated the advice she received and the wisdom she gained by serving the Village.

President Hayes honored Trustee Scaletta for his 16 years on the Board. He said he was an exemplary public servant and a model for others. President Hayes said he will be missed as a friend and a Board member. He noted Trustee Scaletta's attention to detail and preparation for meetings.

Trustee Scaletta thanked President Hayes for his leadership and dedication. He said he was humbled by the turnout for his farewell. He said he was proud of the achievements, especially the operating budget timeline change, paying down pension obligations, and the phased approach of attacking the Emerald Ash Borer Disease among other issues.

The Trustees each spoke about the strengths, energy, and perspectives of Ms. Canty and Mr. Scaletta as Trustees.

Trustee Tinaglia left the meeting at 8:03 because of a professional commitment.

Mr. Recklaus said Trustees Canty and Scaletta made staff better. He admired Trustee Canty as a relentless learner and thanked her for her commitment. He said Trustee Scaletta elevated staff by asking questions which showcased what they knew. He said now, issues need to pass the "Scaletta" test before they are brought forward.

B. Presentation of Child Abuse Prevention Proclamation

Resident Sue Walton was present to receive the proclamation for National Child Abuse Prevention Month. President Hayes thanked Ms. Walton for her

efforts in Child Abuse Prevention.

VII. PUBLIC HEARINGS

VIII. CITIZENS TO BE HEARD

IX. OLD BUSINESS

X. CONSENT AGENDA

CONSENT APPROVAL OF BIDS

- A. Asphalt Restoration 2023 - Contract Extension Approved

Trustee Nicolle Grasse moved to approve. Trustee Mary Beth Canty
Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta,
Schwingbeck

Absent: Tinaglia

CONSENT LEGAL

- A. Ordinance - Code Amendment - Chapter 13 Approved
Alcoholic Liquor Dealers

Trustee Nicolle Grasse moved to approve 2023-21. Trustee Mary Beth
Canty Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta,
Schwingbeck

Absent: Tinaglia

- B. Ordinance - Volume Cap Transfer - Assist Approved
Homeownership Program

Trustee Nicolle Grasse moved to approve 2023-22. Trustee Mary Beth
Canty Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta,
Schwingbeck

Absent: Tinaglia

- C. Plat of Easement for 2400 E. Euclid Avenue and Approved
 664 N. Scottsdale Lane

Trustee Nicolle Grasse moved to approve R2023-16. Trustee Mary Beth Canty Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck

Absent: Tinaglia

- D. Arlington Industrial Park - No Semi Truck Approved
 Parking Ordinance

Trustee Nicolle Grasse moved to approve 2023-23. Trustee Mary Beth Canty Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck

Absent: Tinaglia

- E. No Parking Zone - 2100 E Grove Street Approved

Trustee Nicolle Grasse moved to approve 2023-24. Trustee Mary Beth Canty Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck

Absent: Tinaglia

CONSENT REPORT OF THE VILLAGE MANAGER

CONSENT APPOINTMENTS

- A. Boards and Commissions Reappointments Approved

Trustee Nicolle Grasse moved to approve. Trustee Mary Beth Canty Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck

Absent: Tinaglia

CONSENT PETITIONS AND COMMUNICATIONS

Trustee Nicolle Grasse moved to approve. Trustee Mary Beth Canty Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck

Absent: Tinaglia

- A. Permit Fee Waiver - Arlington Lakes Golf Course Approved
Pond Bank Stabilization
- B. Bond Waiver - Chicago Adaptive Sports Approved

XI. APPROVAL OF BIDS

XII. NEW BUSINESS

- A. Arlington 425 - PUD Extension Request Approved

Bruce Adreani asked to extend the Ordinance, as the market was affected because of the pandemic, supply chain backlogs, financing constraints and market uncertainty. Mr. Lysicatos said the Ordinance was adopted May 3, 2021 and expires next month. The requirement for permit issuance also expires. Staff recommends approves of permitting these extensions.

Trustee Canty said the reasons to not build were appreciated, but other construction projects are happening in the community in the same period with the same setbacks. She said she is not seeing a clear path forward, and asked how will the next 12 months be different from the past 12 months. Is there a path forward, and what is it?

Mr. Adreani responded that high rise construction adds more money than something than a pod type of construction. Power Construction has increased prices, there have been two big increases in steel and concrete. Trustee Canty countered that surrounding communities are moving forward with construction. The issues Mr. Adreani cited are inherent in the construction businesses. She asked again, what is the path forward? Mr. Adreani said he will explore other avenues of development; he may change the plan. No one knows how the Bears stadium will affect the Downtown and he suggested the Downtown may suffer as a result of that development.

Trustee Canty said she heard the challenges in getting shovels into the

ground, but wasn't hearing how the developer will get over them, and it sounds like he is rethinking the project. She said if he needs to start over, do that, but he'll need to go through the process again.

Trustee Schwingbeck said the Board was so excited for this development and everyone wants it to come to fruition. He said he was not convinced Mr. Adreani is going to do anything there. The staff resources have not been offset by fees as yet. Other projects have been built in this time.

Trustee Baldino added the last time Mr. Adreani was before the Board, he asked what were the chances it would move forward, and the question wasn't answered. So, can it be answered now? Mr. Adreani said the economy and market are not good right now. He said he wished he could start it tomorrow, but it is a risk. Trustee Baldino said the Board is wondering about the commitment to it. We are being asked to extend a PUD without hearing of any progress.

Trustee Bertucci asked what would the timeline look like. Mr. Recklaus said staff will ask what will need to happen to get this done, and/or what would be successful in today's environment. Staff has spent a lot of time on the project and now want to make sure any additional time is well spent. Conversations should begin quickly. Trustee Bertucci asked Mr. Adreani if dialogue could occur in the next 30-60 days. Mr. Adreani agreed.

Trustee LaBedz said development is happening all up and down the Northwest corridor. She said she will give Mr. Adreani the benefit of the doubt, but she has concerns that nothing may happen.

Trustee Grasse said she would be willing to give another 12 months and asked if one portion could be approved without the other. The extension for the Chestnut Building permit (#2) does not have to be approved tonight. She said she does not support #2 at this time.

Mr. Lysicatos explained if the petitioner wanted more time after this waiver or if they amended the plan, they would have to go to the Plan Commission process again.

Mr. Adreani offered to build the Chestnut building first because it is a smaller building. That may help alleviate some of the concerns. It has less risk for him, and might energize the plan.

Trustee Scaletta said he is frustrated that it is not moving. He did not think it wise to build the Chestnut Building first. He said if Mr. Adreani can't do the project, he should find someone who can. The Downtown is not going away if the Bears come to town, that is not a valid reason. The atmosphere of a charming Downtown is not going to be the same kind of experience a stadium will be, meaning it will not be in direct competition. He said if Mr. Adreani has lost the passion to get this done, there is not much more the Village can do to help. Trustee Scaletta told him to get something done or move on.

Trustee Schwingbeck asked if it was to fail, what would it mean. Mr. Recklaus said the approvals would all expire. Even if he even wanted to do the same thing, he would have to go through the whole process again. Trustee Schwingbeck asked if there was a way to recoup staff costs. Mr. Recklaus said permit revenue fees do not offset staff time costs. The hope is that if the project is built, tax revenues would increase.

President Hayes said the Board needs to see some progress. The Village cannot have a vacant valuable piece of property. He said he is inclined to grant the request, but this will be the last time. He wants to see the whole thing built, not just the Chestnut Building.

Mr. Adreani said he would be willing to come back in six months.

Lisa Doty, lives on Mitchell and said resident support is still very high for the buildings to be built. She said she would like to see the extension be granted. She suggested to the developer to put in a pollinator garden as a place holder. She asked for future developments to install pollinator plants.

Trustee John Scaletta moved to approve a 12-month extension to the PUD and Preliminary Plat of Resubdivision to May 3, 2024 and a 12-month extension to the deadline for submission of a building permit for the Chestnut Building from April 30, 2028 to April 30, 2029. Trustee Nicolle Grasse Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck

Abstain: Canty

Absent: Tinaglia

XIII. LEGAL

- A. Ordinance Amending Chapter 8 of the Municipal Code of the Village of Arlington Heights
Regarding Street Performers

Mr. Recklaus said an Ordinance was drafted based on the direction of the Board regarding street performers (buskers) after a February Committee of the Whole discussion. The Ordinance says street performers are not required to have a permit, are limited to performing between 10 a.m. to 9 p.m., and may not obstruct bike or pedestrian passage. Also, they may not amplify sound. The Ordinance makes it clear these regulations do not apply to a Village performance or a sanctioned part of the Alfresco sidewalk licensing.

Discussion revolved primarily around the Ordinance SECTION 2 which states:

Sec. 8-527 Street Performers.

a. Definition. For purposes of this Section 8-527, a "street performer" is defined as any person actively providing a public performance or public entertainment within a public right-of-way or public park, whether or not performing in exchange for requested donations.

b. Hours of Performance. Except as part of a special event sponsored or approved by the Village, no street performer may perform or provide entertainment within a public right-of-way or public park before 10:00 a.m. or after 9:00 p.m. on any day.

c. Location. No street performer may obstruct safe vehicular, bicycle, or pedestrian passage along any street or sidewalk, or ingress and egress between a public right-of-way and any building.

d. Structures. Street performers may not use or erect tents or other structures in connection with street performance. Additions are bold and double-underlined; deletions are struck through. 2 {00127071.7}

e. Sound Amplification. Except as part of a special event sponsored or approved by the Village, no street performer may: (1) amplify sound in violation of Section 19-203.I of this Code; or (2) plug any electrical device into any Village owned outlet, generator, or other source of electrical current.

f. Compliance with Village Orders. Street performers may not perform to the extent that their performance constitutes a threat to public health, safety, or welfare, as determined and directed by authorized officers of the Village Police Department."

Trustee LaBedz said she was glad the start time was updated to 10 a.m. She reiterated this Ordinance does not affect businesses who hire musicians to play in their Alfresco space. The Ordinance applies to where the busker is located, not who hires them. If a musician is wandering outside of an Alfresco space, it applies to them.

Trustee Bertucci said he was concerned the language wasn't specific enough so that it will be clear in the future. Where is the definition of special event?

Mr. Passman replied that a special event definition is not in this Ordinance. Streets are a public forum, so the Village has to be mindful of drawing distinctions on free speech in our rights of way. The goal was to be vague; we don't know all the possible means of expression someone may try to bring to our streets. Alfresco was in mind in this drafting. Trustee Bertucci said he just wants to make sure the Village will not do anything to prevent businesses from doing what they do.

Mr. Recklaus said if the Village decided we wanted to say no music outside, we would not need this Ordinance to do it. The only rights the businesses have outdoors is through the license agreement rights which are granted

annually.

Trustee Scaletta said the Village Manager's email response to Mr. Brooks of Hey Nonny satisfied him. When Alfresco was started, the Village Manager was given the autonomy to regulate the level of sound. This meeting, the e-mail, and the language in the Ordinance works for enforcement, and to avoid litigation.

Trustee Schwingbeck agreed saying it seems clear to him too. Reading through it, it gives Alfresco businesses that have an agreement, permission to play music. It protects the businesses as well. The Village is covered either way.

Chip Brooks of Hey Nonny worried that the way the Ordinance is written, it will lead to people calling out businesses for having buskers when they are actually paid performers within the Alfresco space. He asked for an element that defines a street performer who is licensed under Alfresco. There are 5 limitations, 2 contain exceptions for Village events, three do not. The structure for public event is misguided. He asked for a more precise drafting.

Trustee Canty suggested that Alfresco effectively changes the right of way. Mr. Recklaus countered that exclusive use of portions of the right of way are granted, but they do not cease to be public rights of way. Trustee Canty said the vagueness exists for the whole of Alfresco including the seating and fencing, the entire thing. Already Alfresco is a special event, and the public is no longer accustomed to using the public right of ways in the same manner. We have effectively shifted the public right of way for an amount of time. This Ordinance says as long as performers are within the boundaries of your licensed space, they are okay. If they outside of that boundary, they are out of line. Mr. Recklaus replied the entire thing is a public right of way, unfettered access is changed during Alfresco. Trustee Canty countered that because of that change, Hey Nonny's performers are protected.

Mr. Brooks said he still worried the distinction is not clear enough.

Trustee Schwingbeck said to him it is clear the businesses are allowed to play music and not be called buskers. Mr. Recklaus said the intent is to protect the sanctioned performers in the lines, but put some limits on the street performers who are putting a hat out on the corner.

Mr. Passman said if it's the desire of the Board, the wording can be more explicit in defining a street performer. This is a Village license; it can grant it and take it away. Mr. Brooks is right, the language of special event exception is only in Sections 2: b. and e. Sections 2: a., c., d., and f. address public health and safety, to which all should abide. They regulate something about the way a performer is performing, not the content, so something about the performance is an issue. That is why they don't have the special event distinction.

Trustee Scaletta asked Mr. Brooks if he was worried about musicians playing outside of his area. Mr. Brooks said no, their agreement says it is for the people in his sanctioned Alfresco space. Trustee Scaletta said it's clearly stated, Alfresco is an event approved by the Village, you are covered.

Trustee Grasse asked if a better definition be included for a street performer. It wouldn't change what we are wanting to do.

Trustee Scaletta asked who Mr. Brooks was afraid of, as it seemed he was on a mission to get it changed. Mr. Brooks said he is worried about risks, if a structure is vague, it's a risk to him. Trustee Scaletta said he believed Hey Nonny was covered, as they have an agreement, an email from the Village Manager saying his business is not affected, and a video of this meeting.

Trustee Richard Baldino moved to approve an Ordinance amending Chapters 8 and 19 of the Municipal Code regarding Street Performers and Noise Amplification. Trustee John Scaletta Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta, Schwingbeck

Absent: Tinaglia

XIV. REPORT OF THE VILLAGE MANAGER

XV. APPOINTMENTS

XVI. PETITIONS AND COMMUNICATIONS

President Hayes referenced some recent crime occurrences saying there is no 100% solution to crime.

Mr. Recklaus said there were a couple of isolated events recently in the underground garage. The latest incident was between two individuals who knew each other. People are in custody for both events. The Village Board held a special meeting on security in our garages and as a result we will add cameras, lighting and a public broadcast system to make it less of an option to sleep or hang out. Staff may introduce an ordinance prohibiting any activity other than parking which would include skateboarding, parties, and sleeping. This action would make it easier for police to respond. The issue is being taken seriously. There is also an increased the Police presence in the garages.

A. Closed Session

Request for Closed Session per ILCS 120/2(c)
(21): Discussion of minutes lawfully closed,
whether for purposes of approval of the minutes

or the semi-annual review of the minutes

-and-

5 ILCS 120/2 (c)(1): appointment,
employment, compensation, discipline,
performance or dismissal of specific employees
of the public body or legal counsel

XVII. ADJOURNMENT

Trustee John Scaletta moved to adjourn to Closed Session at 9:37 p.m.

Trustee Tom Schwingbeck Seconded the Motion.

The Motion: Passed

Ayes: Baldino, Bertucci, Canty, Grasse, Hayes, LaBedz, Scaletta,
Schwingbeck

Absent: Tinaglia