

March 5, 2018

The regular meeting of the Board of Trustees of the Village of Deerfield was called to order by Mayor Harriet Rosenthal in the Council Chambers of the Village Hall on March 5, 2018, at 7:30 p.m. The clerk called the roll and announced that the following were:

Present: Harriet Rosenthal, Mayor  
Robert Benton  
Thomas Jester  
Mary Oppenheim  
William Seiden  
Dan Shapiro  
Barbara Struthers

and that a quorum was present and attendance. Also present were Village Manager Kent Street and Village Attorney Matthew Rose.

PLEDGE OF ALLEGIANCE

Zoie Richardson led those in attendance in reciting the Pledge of Allegiance. Ms. Richardson is a Deerfield High School student who spoke about keeping students safe in school. She is one of a group of students organizing a walkout on March 14, 2018, from Deerfield High School to Village Hall. Student voices need to be heard and they want to see an impact. The students will be reading the names of victims of gun violence.

MINUTES OF PREVIOUS MEETING

Trustee Struthers moved to approve the minutes from the February 19, 2018, Board of Trustees meeting. Trustee Oppenheim seconded the motion. The motion passed unanimously on a voice vote.

TREASURER'S REPORT

Finance Director Eric Burk presented highlights from the January 2018 Treasurer's Report. Mr. Burk reported the non-Home-Rule sales tax decreased over the same period last year due to economic incentives. Water and sewer billings represent lower usage months, but are up from last year. Hotel tax is consistent with the same period last year. The State income tax decreased from last year, due to receiving two payments in January 2017. Building permit revenues are in line with last year. The January expenditures include the required salt purchases and tree trimming.

BILLS AND PAYROLL

Trustee Jester moved to approve the Bills and Payroll dated March 5, 2018. Trustee Oppenheim seconded the motion. The motion passed by the following vote:

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers (6)  
NAYS: None (0)

PUBLIC COMMENT

There were no residents wishing to address the Board on non-agenda items.

REPORTS

REPORT AND RECOMMENDATION  
OF STAFF AND THE VILLAGE  
ATTORNEY RE: ASSAULT WEAPONS  
BAN

Mayor Rosenthal directed Staff and the Village Attorney to prepare this report. Mr. Street noted the Village of Highland Park adopted an Ordinance that banned assault weapons. Following a legal challenge, the Highland Park Ordinance was upheld by the Federal Courts. On July 1, 2013, the Village adopted an Ordinance defining assault weapons and restricting the storage and safe transportation of assault weapons in the Village. The adoption of this Ordinance preserved the Village's right to amend it in the future.

The proposed amendment would ban the possession, sale and manufacture of assault weapons and large capacity magazines within the Village and is based on the Highland Park Ordinance.

Mr. Rose reported that in 2013, the Federal Courts ruled that the State of Illinois' ban of concealed carry of firearms violated the Second Amendment. A new law to address this ruling gave home-rule units of government the ability to regulate the possession or ownership of assault weapons in accordance to State law as long as the municipality enacted the restriction within 10 days of the law's passage. An Ordinance enacted during that time period may be amended at a later date. As such, the Village may now enact an amendment to the 2013 Ordinance that can ban the possession, sale and manufacturer of assault weapons and large capacity magazines, similar to Highland Park.

Mr. Rose reported the existing Ordinance regulated the storage and safe transportation of assault weapons. The proposed Ordinance keeps the same definitions, but amends the storage and transportation of assault weapons and bans the use of assault weapons and large capacity magazines. The proposed Ordinance provides a 60-day window after it becomes effective for residents to come into compliance.

Richard Shulman, 85 Sequoia Road, is a 30-year resident of Deerfield. Mr. Shulman congratulated the Board and expressed his support for the ban in the Village.

Michael Taitel, 1155 Stratford Road, is a Senior Director at Walgreens. He offered his support and encouragement to the Board. It is time to ban assault weapons. He believes in the Second Amendment and the right to bear arms, but believes weapons of war belong in armories not in people's homes.

Mitchell Shore, 920 King Richard's Court, is a 30-year resident. He would like to know if there is an assault weapon problem in Deerfield and questioned why the Board is considering banning assault weapons. He noted there are a number of other weapons that are similar to assault weapons but are not banned. Mr. Shore indicated there have been numerous instances where

children were killed that do not involve guns. He is a State certified law enforcement professional and would be considered a criminal in Deerfield because he has what is defined as an assault weapon. Mr. Shore reported more people have been killed due to speeding. He suggested trying to address mental health issues would be more beneficial than the proposed assault weapon ban.

Susan Mason, 900 Summit Drive, supports the initiative. She expressed concern about the enforcement and suggested making it a stricter penalty going forward.

Paul Frank, 2916 Parkside Drive, Highland Park, congratulated the Village for taking this step. It is time to do something. There is no Ordinance that will stop everything.

Nancy Rotering, Mayor of Highland Park, thanked the Village for considering this action. She believes that important initiatives like this start at the municipal level. Other communities, such as Parkland, did not have an assault weapon problem, until they did. Mayor Rotering thanked Senator Julie Morrison for introducing State Bill 2314.

Bob Morgan, 520 Pine Street, thanked the Village for doing what they can for the residents. It is a massive reflection of courage. The community will stand with the Trustees to get this done.

Jack Strom of Highland Park supports the assault weapons ban. He believes schools should be safe places for students. Mr. Strom believes more resources should be devoted to mental illness, but it is not the same issue.

Senator Julie Morrison stated that students and teachers should not feel unsafe at school. She mentioned legislation that has been sent to the Governor to improve gun safety. The Gun Dealer Licensing Bill is on the Governor's desk.

Rabbi Jason Fenster from Congregation BJBE is amazed by the moral courage of the students and the Village. People are commanded to think about what they have that may cause harm and restrict themselves for the good of the community.

Sharon Richardson, 946 Clay Court, appreciates Mr. Shore's words and respects he knows how to use firearms. She stated that her worry is about those who do not know how to use them and those who want to use them to hurt others. Ms. Richardson wants her children to be safe and believes it should start at the home. She believes anything causing harm to children, including video games and mental health issues, can also be addressed.

Alex Kogan, 1268 Christine Court, Vernon Hills, appreciates the Village is trying to do something good to protect the children. He is concerned about the method the Village is using. Mr. Kogan suggested addressing mental health issues and video games instead. There needs to be more education on firearms and mental illness.

Daniel Easterday, 390 Wilmot Road, moved out of Highland Park in 2014 because they implemented their assault weapons ban. He is a recreational shooter and pistol instructor. Mr.

Easterday questioned whether students in Deerfield have bullied others. The shooter in Florida was known to be bullied. He believes the system failed. Mr. Easterday expressed concern because the Village wants to regulate a tool rather than try to change the minds and hearts of people that will do wrong. Mr. Easterday does not believe this is a gun problem; rather, it is a culture problem. He believes the State should decide what should be done.

Ariella Karrish, 1420 North Avenue, Bannockburn, noted Deerfield High School students have instituted a support group to discuss gun violence in schools. It is on their minds. Deerfield has an opportunity to do something to make students feel safer. The students should not feel scared.

Steven Nagge, 1304 Kenton Road, believes guns need to be addressed before they become a factor in Deerfield.

Andrew Tobin, 841 Fox Hunt Trail, thanked the Board. Change must happen gradually. He applauded the Village for taking on this issue and hopes other communities will do the same.

Mayor Rosenthal reported the Board received a number of emails and thanked people for taking the time to send them. She thanked everyone for coming out.

Trustee Oppenheim moved to accept the report and recommendation banning assault weapons. Trustee Shapiro seconded the motion. The motion passed by the following vote:

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers (6)

NAYS: None (0)

**REPORT AND RECOMMENDATION  
OF STAFF RE: COAL TAR SEALANT  
BAN**

Assistant Village Manager Andrew Lichterman reported staff prepared a report recommending implementing a ban on the sale and use of coal tar products in the Village. As part of the

recommendation, staff suggested requiring pavement sealant professionals to obtain an annual license in the amount of \$100. As a condition of receiving the license, they would need to sign a statement acknowledging they understand the use of coal tar pavement sealants is prohibited in the Village. An education program would accompany the ban, which is recommended to take affect May 1, 2018.

David Kanter, 342 Ruby Street, Clarendon Hills, grew up in Deerfield. He represents the Pavement Coatings Technology Council (PCTC), comprised of manufacturers of driveway sealants including coal tar sealants. He submitted materials to the Board outlining the PCTC's opinions. Mr. Kanter noted that other north shore communities have bans, but they did not test their water or soil before banning coal tar sealants. The Deerfield Sustainability Commission recommended an education campaign and water and soil testing. He agrees with the Sustainability Commission's report. He noted that just because coal tar sealants have PAHs is not a reason to ban them. PAHs are produced with burning wood, internal combustion, grilling meats, etc. Many other products, such as shampoo, have coal tar in them. Some PAHs in a laboratory setting can cause cancer in humans. Other products, such as red meat, cigarettes,

tanning beds, alcohol and gasoline are also linked to cancer but have not been banned in Deerfield. There have been no lawsuits against coal tar sealants. He stated that the Village can choose not to use coal tar sealants on their properties, but Deerfield residents should also have the right to choose what sealant they want to use. Mr. Kanter asked the Board to allow the PCTC to make a presentation prior to voting.

Anne LeHuray is Executive Director at the PCTC. She stated that all organic materials have the possibility to create PAHs. Ms. LeHuray was retained by PCTC because she is a scientist. There is virtually no exposure to individual PAHs, except in laboratories. The FDA Adverse Impact Database has very few reports on coal tar. People in the sealant industry include small, multi-generational businesses. Her job, as a scientist, is to find out if coal tar sealants are causing harm. She does not believe coal tar sealants cause harm.

Trustee Struthers understands there are various studies, but believes this is a source of PAHs that the Village could reduce. Mayor Rosenthal stated that after studying the Sustainability Commission's recommendation, she does not believe the Village could stop a shopping center from using coal tar sealants. She believes the Village has an obligation to ensure the safety of the community. Trustee Oppenheim believes the Village is being cautious and there are other options for driveway sealing. The Village is not causing a hardship by banning coal tar sealants and is protecting residents.

Trustee Seiden moved to accept the report and recommendation of staff regarding banning coal tar sealants. Trustee Struthers seconded the motion. The motion passed by the following vote:

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers (6)

NAYS: None (0)

#### CONSENT AGENDA

There were no items on the Consent Agenda.

#### OLD BUSINESS

ORDINANCE O-18-03 AUTHORIZING AN ORDINANCE AUTHORIZING AN AT&T LEASE  
AN AT&T LEASE EXTENSION -2R extension.

Trustee Benton moved to waive the First Reading and adopt the Ordinance authorizing an AT&T lease extension. Trustee Shapiro seconded the motion. The motion passed by the following vote:

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers (6)

NAYS: None (0)

ORDINANCE AMENDING THE MUNICIPAL CODE TO CREATE A AN ORDINANCE AMENDING THE MUNICIPAL CODE TO  
create a Class E liquor license for Bartaco located

CLASS E LIQUOR LICENSE FOR BARTACO (711 DEERFIELD ROAD, UNIT A) AND REDUCE THE NUMBER OF CLASS C LIQUOR LICENSES BY ONE – 1R

at 711 Deerfield Road, Unit A and reduce the number of Class C liquor licenses by 1.

Mayor Rosenthal indicated this would stand as a First Reading of the Ordinance.

RECONSIDERATION OF REPORT AND RECOMMENDATION OF THE PLAN COMMISSION RE: APPROVAL OF THE REDEVELOPMENT OF THE 99 S. WAUKEGAN ROAD PROPERTY (FORMER OFFICE DEPOT); A SPECIAL USE UNIFIED DEVELOPMENT (WAUKEGAN LAKE COOK LLC AND CHICK-FIL-A)

Rich Klawiter, attorney with DLA Piper, noted the Mayor and Board's concerns with the traffic. The Plan Commission unanimously recommended approval of the project. On January 20, 2018, the Village Board also unanimously accepted the report and recommendation of the Plan Commission. A motion to reconsider was made.

Mr. Klawiter stated there is an updated traffic report in a supplement in the Board packet. There was a Public Hearing with no opposition to the project. The project has a 40-year legacy of a strange Zoning configuration.

Trustee Struthers asked if lunchtime traffic was considered. Luay Aboona with KLOA looked at the weekday and Saturday lunch traffic, as well as breakfast and dinner. Mayor Rosenthal expressed concern that the Village is being asked to approve a Text Amendment for a drive-thru in a non-signalized intersection. She is concerned about customers making a left turn out of the property in darkness. She asked the petitioner to consider not having a drive-thru or limiting the left turn hours.

Mr. Aboona stated the traffic study looked at the site lines and ability for drivers to enter and exit the property. They looked at the gaps between the traffic and found that the driveway's placement between two traffic signals allows customers to exit in a safe manner. The existence of a drive-thru would not change the fact people will have to make a left turn out of the property. Mayor Rosenthal believes a drive-thru restaurant generates more, concentrated traffic. A successful drive-thru restaurant will have a consistent turnover during lunch and dinner hours. She questioned what would happen if there were a number of near-miss accidents.

Mr. Aboona noted there are multiple ways to exit the site. They project 20 to 25 percent of the traffic to turn left out of the site. It is critical to the business to allow left turns out of the site. Trustee Struthers noted the report states the striped median on Waukegan Road would allow a two-stage turn. She believes vehicles would get honked at if they stopped in the median. Trustee Seiden noted traffic on Waukegan Road has steadily increased. He believes the traffic creates a dangerous situation. Trustee Seiden would love to have the restaurant, but believes allowing left turns out of the site while not having a traffic signal makes it very dangerous. He asked Mr. Rose if the Special Use could be amended in the future. Mr. Rose noted there could be stipulations placed on the Special Use that would trigger a renewal based on the results of a future traffic study. Trustee Seiden noted Portillo's has a tremendous amount of traffic entering and exiting from the drive-thru. Mr. Aboona noted Portillo's has a higher usage. This site has a

number of ways to enter and exit the site. Prohibiting a left turn out of the site to go south on Waukegan Road would hurt the business.

Trustee Shapiro asked whether Chick-Fil-A would consider limiting left turns out of the property between 4 p.m. and 6 p.m. Jason Hill, with Chick-Fil-A, stated their real estate committee approved this location because it has full access. They are not in favor of this turn restriction. Trustee Shapiro inquired whether this would be the only drive-thru in the Village without a dedicated traffic signal. Josh Levy explained there are three exits on the site with two being connected to the light at Deerfield Road and Waukegan Road. Trustee Oppenheim noted Chick-Fil-A may only be looking at 31 vehicles during that time, but the medical facility would also be inconvenienced if there were a left turn restriction. Trustee Oppenheim believes the data shows this proposal will work.

Trustee Seiden noted Panera customers are not allowed to turn left onto Waukegan Road during certain hours. Trustee Benton noted Panera customers can turn left onto Waukegan Road by cutting through to the Carson's light. Trustee Oppenheim believes there needs to be internal directional signage to educate customers about the site. There are a number of ways to enter and exit the site.

Trustee Struthers would like to see a completely separate approval for building B, as they are also requesting a drive-thru. Mr. Klawiter stated they are actively marketing the site but due to the restrictions with Chick-Fil-A, the other building will not have a restaurant. Mayor Rosenthal thought the petitioner had decided not to pursue a second drive-thru. Mr. Levy stated they have not given up that right, but do not want the Chick-Fil-A approval to be influenced by possible later proposals for the second building. Trustee Shapiro indicated the Trustees expressed reluctance to have a drive-thru in the second building.

Trustee Jester moved to deny the reconsideration of the report and recommendation of the Plan Commission and accept their recommendation. Trustee Oppenheim seconded the motion. The motion passed by the following vote:

AYES: Benton, Jester, Oppenheim, Struthers (4)

NAYS: Seiden, Shapiro (2)

ORDINANCE AUTHORIZING THE REDEVELOPMENT OF THE 99 S. WAUKEGAN ROAD PROPERTY (FORMER OFFICE DEPOT); A SPECIAL USE UNIFIED DEVELOPMENT (WAUKEGAN LAKE COOK LLC AND CHICK-FIL-A) – 1R

An Ordinance authorizing the redevelopment of the 99 S. Waukegan Road property (former Office Depot); a Special Use unified development. First Reading.

Trustee Struthers questioned why the petitioner is insisting on using Dryvit, which does not hold up well in this environment. Mr. Street noted the

Appearance Review Commission was not in favor of the Dryvit. Brett Katz noted it was in the back of the building. They understand the ARC's view and are looking at other options. Mayor Rosenthal noted the ARC has also denied the menu board canopy. Mayor Rosenthal noted this

would stand as a First Reading of the Ordinance but noted the ordinance to include a stipulation that the petitioner shall conform with the ARC's approval.

Trustee Shapiro stated that he would like to have the Special Use approval for Chick-fil-A and the Text Amendment authorizing a Multi-Use Unit Development as two separate Ordinances rather than in one, as currently drafted. Mr. Rose noted that a motion can be made at the next meeting to do separate the Ordinances.

ORDINANCE O-18-04 AUTHORIZING THE VACATION OF A BUILDING LINE AT 755 SUMMIT DRIVE – 2R      An Ordinance authorizing the vacation of a building line at 755 Summit Drive. Second Reading.

Trustee Jester moved to adopt the Ordinance.

Trustee Oppenheim seconded the motion. The motion passed by the following vote:

AYES: Benton, Jester, Oppenheim, Seiden, Shapiro, Struthers (6)

NAYS: None (0)

#### NEW BUSINESS

There was no New Business.

#### DISCUSSION

There was no further discussion.

#### ADJOURNMENT

There being no further business or discussion,  
Trustee Oppenheim moved to adjourn the meeting.

Trustee Shapiro seconded the motion. The motion passed unanimously. The meeting was adjourned at 9:41 p.m.

The next regular Board of Trustees meeting will take place on Monday, March 19, 2018, at 7:30 p.m.

APPROVED:

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Mayor

ATTEST:

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Village Clerk