

VILLAGE BOARD MEETING

Bethalto, IL

June 6, 2005

The Village Board of Trustees met on the above date at village hall in a regular meeting called to order by Mayor Bryant at 7:30 p.m. The meeting opened with the "Pledge of Allegiance". Roll call by Clerk Smith. Present: Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo. Also present: Attorney Balsters, Fire Chief Nolte, Police Chief Winslow, Public Works Director Ricci, Assistant Public Works Director Piening, Zoning Administrator Friedel, and Pool Manager Suessen.

Motion by Withers, seconded by Bourland, to approve the special board meeting minutes of May 24, 2005 as printed. All members present voted aye viva voce. Motion carried 6-0.

Fire Chief Nolte reviewed the statistical report for the month of May. There were no questions. Nolte requested that he be excused from the remainder of the meeting in order to participate in a stress debriefing involving some of the younger members of the department. Nolte thanked everyone for any and all assistance with the recent drowning incident. Nolte reported four of the firemen are repeating Module I testing. The remaining firemen are continuing with Module II testing and soon will be state certified fireman. There were no questions for Chief Nolte.

Police Chief Winslow asked if there were any questions on the May activity report. There were none. Winslow reported the scout encampment held last month at the airport went very well. There were approximately 1,200 participants along with group leaders, parents and a large number of spectators. Winslow thanked Airport Director Miller, the airport board, and airport employees for their support along with the village fire department and public works employees for their round-the-clock assistance.

Public Works Director Ricci reported the Circle Drive curb and gutter project was nearing completion. Backfill work has been done and all that remains is minimal yard work. The second paint recycle day was being held on Saturday, June 11. Additional days for the recycle program will be the second Saturday of every month through October. Ricci had nothing further to report. There were no questions.

Pool Manager Jessica Suessen reported the pool opened Memorial Day weekend and attendance had been good. There had been 45 passes sold most of which were family passes. Suessen commended the Public Works staff on their efforts in getting the pool in shape for the swim season. Concession sales had been going well. Two swim class sessions were being offered. The pool staff consisted of nineteen guards, two concession employees, Suessen, and two assistant managers. There were no questions for Suessen.

Mayor Bryant moved down the agenda to Reports from Mayor and other officers.

1. Approve recommendation from Plan Commission for final plat of Bethalto Community Unit School District No. 8 – James Street Subdivision. Approved as presented and recommended with stipulations as follows: engineer's certificate to be included for board signature, sidewalk requirement waived, plat to include zoning district "DC-Downtown Commercial", and "North Street" shown on the plat. **Motion by Flack, seconded by Withers, to approve final plat of Bethalto Community Unit School District No. 8 – James Street Subdivision with the above stipulations.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.
2. Approve recommendation from Plan Commission for final plat of Lowrance's Courtyard-Albers Lane. Approved as presented with stipulations as follows: revision of legal description, twenty foot (20') easement running north and south to be relabeled as "twenty foot (20') utility easement", adjacent property on the southwestern side to be clarified by Mr. Lowrance as part of the recorded sub or open unsubdivided land,

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addition of correct owner's certificate, addition of flood hazard certificate, confirmation from Assistant Public Works Director Bill Piening pertaining to the need of additional right-of-way, sidewalk requirement waived, all lots front an existing street, and no development permit is required except from Article 3-retention basin. Assistant Public Works Director Piening stated a bond was required on sewer improvements and Mr. Lowrance was made aware of that fact. **Motion by Bourland, seconded by Wallace, to approve final plat of Lowrance's Courtyard-Albers Lane.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

3. Illinois Department of Transportation sign. Mayor Bryant presented signs from the Illinois Department of Transportation to the state champion Civic Memorial High School Purple Pizzazz Lyrical Dance Team. The signs would be included on the village population signs at the entrance to the village on Illinois Routes 140 and 111.
4. Chief Deputy Madison County Sheriff's Department. Dennis Fisher, Chief Deputy of the Madison County Sheriff's Department presented Sergeant Jeff Smith with a plaque awarding him an "Honorary Deputy Sheriff's Commission" for his involvement with the DARE Program and his work with the youth of the village.
5. Citizen commendation. Police Chief Winslow presented citizen Karl Reinke with a citizen commendation for his assistance to the police department in "nabbing" a burglar and helping to keep the Sheridan Street neighborhood a safe place.
6. Lee Friedel retirement. **Motion by DiPaolo, seconded by Oldendorph, to accept the resignation of Lee Friedel as zoning administrator.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.
7. Zoning Administrator appointment. Mayor Bryant named Bill Piening as Zoning Administrator and Joe Ricci as Assistant Zoning Administrator. **Motion by Oldendorph, seconded by Withers naming William Piening as zoning administrator and Joseph Ricci as assistant zoning administrator.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

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8. ARC pool request. Mayor Bryant announced a request from the William M. BeDell Achievement and Resource Center for the use of the pool for their summer swim program beginning Friday, June 17 through Thursday, July 22 pending proper insurance. **Motion by Wallace, seconded by Withers granting the William M. BeDell Achievement and Resource Center use of the pool for their summer swim program.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.
9. Lieutenant and Sergeant police department promotions. Mayor Bryant announced the promotions of Greg Smock to Lieutenant and Mike Freiner to Sergeant Patrolman. **Motion by Bourland, seconded by Flack to accept the promotions of Greg Smock to lieutenant and Mike Freiner to sergeant patrolman.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0. Mayor Bryant called on Police Chief Winslow to make the presentations.
10. William F. Stephenson scholarship recipients. Mayor Bryant announced the winners of Stephenson scholarship winners: Jerrod Marshall, Tara Underwood, Brett Wassink and Tatum Wooley.
11. Authority to request bids – sports fields at new sports complex. Mayor Bryant requested authority from the board to allow Hoelscher Engineering to let out for bid the sports fields at the new sports complex. They were currently letting out the fields and in approximately sixty days would let out the structures. Work would start in approximately 45 days. **Motion by Withers, seconded by Oldendorph to grant the mayor authority to request bids for sports fields at new sports complex.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.
12. Request from Jaycees for use of park for their annual Country Fair. Mayor Bryant stated fair would be held June 9 through 12. Bryant confirmed that insurance was in hand. **Motion by Withers, seconded by DiPaolo to allow Jaycees use of the park for their**

annual Country Fair June 9 through 12. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

(Bryant resumed original order of agenda).

Resolution 2005-10 – Release of Executive Session Minutes. **Motion by Bourland, seconded by Oldendorph, to approve Resolution 2005-10 “Release of Executive Session Minutes”.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

Resolution 2005-11 – Termination of Utility Easements (AEL/Completion Air). Attorney Balsters stated when the Completion Air building was constructed, a part of Airline East Circle was vacated as a public road but easements running adjacent to the road were not. This resolution would authorize partial termination of any utility easement which the village may have had within the perimeter of the building structure. Public Works, after reviewing the plat, found the village did not have need for any of the previously dedicated utility easements within the structure and sanitary sewer/water lines had been removed. **Motion by DiPaolo, seconded by Flack to approve Resolution 2005-11 “Termination of Utility Easements (AEL/Completion Air)”.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

Ordinance 2005-10-Prevailing Wages. **Motion by Flack, seconded by Oldendorph to approve Ordinance 2005-10 – “Prevailing Wages”.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

Ordinance 2005-11-Annexation Request-Roman Catholic Diocese of Springfield in Illinois. Attorney Balsters stated the Diocese requested the annexation of 58.14 acres located on Moreland Road south of Moro Road adjacent to corporate limits on the west side. The tract is uninhabited. The three trustees were notified of the pending annexation. All petitions and

legal requirements appeared to be in legal compliance. **Motion by Wallace, seconded by Flack, to approve Ordinance 2005-11 – “Annexation Request-Roman Catholic Diocese of Springfield In Illinois”.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

Ordinance 2005-12-Supplemental Appropriation Ordinance. Attorney Balsters stated the books were reviewed by the village treasurer and found it necessary to amend the original appropriation ordinance passed July 2004. Additional funds were available and corporate authorities wish to appropriate as follows: \$50K to the TIF account and \$10K to the IMRF Fund. **Motion by Bourland, seconded by Wallace, to approve Ordinance 2005-12 “Supplemental 2005-06 Appropriation Ordinance”.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

Mayor Bryant stated the following recommendation of the Zoning Board was on the application of a special use permit filed by Donald and Elaine Withers for property located at 511 E. Bethalto Drive for the construction of a storage lot for a towing business. The Zoning Board approved the permit with the following conditions: directional lighting from the west to the east as to not interfere with any residential living quarters and fencing around the tow lot be of sturdy nature as to not have any breakage or entering and to be cyclone fence with double plastic slats; six feet high. The Mayor advised everyone in attendance that board members received a packet containing information taken from the public hearing and the Zoning Board meeting. Their decision was to be made based on the information in those packets only; no new evidence could be introduced that evening. Mayor Bryant called on Attorney Jim Sinclair representing Don and Elaine Withers. Sinclair made the following points:

1. The property is located in a General Commercial district as is all property surrounding the property in question.

2. The zoning classification allows for auto repair. A special use permit is necessary in order to run a towing service in conjunction with the automotive repair service
3. Granting of a special use permit is based upon criteria and performance standards set forth in the village zoning ordinance (2000-7, Section 10.4):
 - the special use is consistent with the Comprehensive Plan
 - compatible with surrounding uses and compatibility with the surrounding neighborhood
 - generation of tax revenues to support the operation of the village (project should generate approximately \$8K annually in sales tax in addition to property tax increase because of the improvement)
 - construction/appearance will be similar to structures already located along Highway 140
 - addition of this structure/business should not significantly increase traffic. The towing operation comprises 20 to 30% of Withers' business After hour tow calls for a thirty-nine day period numbered 26 which are equal to .6 calls/day. The entrance to the business will be from a side street.
 - noise levels should not impact an already busy state highway
 - lighting and screening issues had already been addressed
 - Wither's has operated an established business in the community for the past seven years and is moving to the new site because of the growth of his business. He is a good citizen and is committed to this community. It would not be practical for him to separate the two phases of his operation.
 - There are no hospitals or schools in the area requiring special protection

Sinclair stated Don met all of the criteria under the terms of "special use" under the village ordinance. The Zoning Board's decision was not a political decision. It was a decision based on criteria that is within the ordinance. **Sinclair** urged the board to seriously consider the Zoning Board's recommendation and realize they did their job. **Sinclair** offered to answer any questions from the Board. **Flack** stated the issue was not the building or the garage

automotive service; those were approved uses. **Flack** asked Sinclair to address the compatibility of the tow lot as opposed to the building itself. **Sinclair** stated the tow lot was allowed as a special use under the ordinance. The automotive repair is a permitted use under the ordinance. The Zoning Board says there are instances in which a special use may be allowed under special conditions to go along with a permitted use, i.e., automotive repair. Since the Zoning Board placed a restriction on the lighting and screening, it has in fact addressed the issue of compatibility of the tow operation with the surrounding area. **Flack** stated he was still not clear on the compatibility with surrounding uses. **Sinclair** stated it is compatible with what the Comprehensive Plan has set out for land use in that area. What the village has is a non-conforming use, referring to the Meisenheimer residence, immediately adjacent to the property. **Sinclair** stated Don should not be penalized because of the non-conforming use that is not in line with the Comprehensive Plan and zoning classification. **Flack** expressed concern with the terms “surrounding uses” not “surrounding zoning”. As a board member Flack was concerned with uses whether conforming or not. **Sinclair** stated you have a residential use in the middle of a commercial area. If you are going to drive your zoning ordinance and zoning decisions by non-conforming uses you will continue to have these problems. With the appropriate restrictions this will not be an impediment to the surrounding property, specifically the Meisenheimer property. That location (Meisenheimer) is non-conforming and it is not fair to evaluate Don’s proposal in light of a non-conformative property that is out of line with your ordinance. **DiPaolo** stated he interpreted our zoning to protect the interest of everyone living in that immediate area and expressed concern with the residents of the Chateau Apartments. These people need to be protected from the view of that wreckage and used this as the basis for his decision the first time. **Sinclair’s** response was he saw nothing in previous zoning board proceedings where any objections were made based on that issue. **DiPaolo** stated he had done a sight analysis and an eight foot fence would be sufficient in keeping the wreckage out of sight – a six foot fence would conceal maybe half. **Sinclair** stated, in speaking for Withers, he would conform to an eight foot fence a six foot fence was not his determination. **DiPaolo** asked what double slat fencing

meant. **Sinclair** stated when using chain link fencing, slats would be run in both directions to make it opaque. **Mayor Bryant** clarified that the store (repair shop) itself would generate tax revenue but questioned how the tow yard would generate tax revenue. **Sinclair** stated if the special use is not permitted, there would be no store. **Mayor Bryant** asked if the site plan, which was presented to the zoning board, was precisely the way the structure would be built. **Sinclair** stated there would be no variation of the presented plan.

Attorney Bob Perica, representing Josephine Meisenheimer and her family, stated he had no objection with the mechanic business but was opposing the tow yard. There is a distinction between commercial and industrial and felt a tow lot should be classified as industrial. Perica stated nothing presented had changed from the previous meeting. You need to ask yourself, "Is this tow lot consistent with the Village of Bethalto Comprehensive Plan?" Perica stated it was creating a trailer park look with plastic slats running horizontally and vertically through chain link fencing. Who would want to locate a business in the vacant adjacent property next to that tow lot with this type of fencing, noise twenty-four hours a day, the smell of diesel fluid, exhaust, etc. These things do not fit with the established businesses in the area, i.e., dental office, pizza establishment, physician's office, etc. Mrs. Meisenheimer had never objected to any of these commercial developments. Perica referenced a letter from Homer Henke which stated the addition of this tow lot in this area would decrease the value of properties located around it. This means a decrease in tax monies going to the school district and future commercial growth in that area. Perica suggested that Don locate this business elsewhere which would be more appropriate, i.e., industrial area along Highway 111. Perica reemphasized that this is not consistent with the plan and this type of business does not conform to the area.

The Mayor asked if there were any questions for Messrs. Withers, Sinclair or Perica. Hearing none, the Mayor asked if anyone wanted to address the board. **Marlene Barach**, sister-in-law of Mrs. Meisenheimer, stated Meisenheimer has lived at this residence for over

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fifty years, is eight-two years old, and doesn't feel she should be penalized at this stage of her life with a business of this type next door to her residence.

Mayor Bryant asked Withers or Sinclair to confirm that the business would be a tow lot and not a wrecking yard. **Sinclair** pointed out that the village ordinance lists a towing operation as a special use which is separate from industrial classification. Sinclair stated the Wither's operation is designed to do short term as in the past; Withers is simply moving his business. Sinclair added the fencing and slating mentioned by Perica was a suggestion made by the Zoning Board. If there was something else better suited, the board should feel free to suggest that and Don could address it. **Mayor Bryant** questioned the procedure for abandoned vehicles, i.e., length of time on lot, etc. **Withers** stated wrecked or damaged vehicles with repair costs beyond their worth could be there several months at the most. **Bourland** asked what the capacity of the lot would be. **Withers** stated the new lot will be a little larger than his current lot and the most he has ever had at his current location is twenty-seven vehicles. Fifteen was a good average number.

Flack asked the zoning administrators (Friedel/Piening) what the distinction was between a tow yard (approved for GC-General Commercial) and a wreckage/salvage yard (approved for LI-Light Industrial) and what keeps a tow yard from turning into a wreckage/salvage yard. **Friedel** stated that would be determined by the length of time vehicles remain on site. **Piening** didn't think there was much difference between the two; they are not for salvage but are sold for salvage. **Withers** said Illinois state law states you can not sell more than four major parts from a vehicle. Withers stated he does not sell parts off the cars he sells them as complete cars. Vehicles are towed at the request of the police department or county and if vehicles are not picked up in a timely manner he is provided a junking certificate. **Flack** again asked what governs the operation. **Sinclair** stated the comprehensive plan provides the definition of a tow yard if Withers does not comply with these guidelines the special use permit could be revoked at any time if found to be non-compliant. **Mayor Bryant** asked if

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Withers kept a log of the length of time a car has been on the lot. **Withers** stated every car had a ticket and he maintained an inventory control.

DiPaolo asked what other options might be used for screening instead of the chain link slatted fencing. **Mayor Bryant** stated he had several discussions with Withers and he was willing to do whatever common means necessary to appease the board. Bryant suggested an eight foot vinyl fence which would restrict the view of the residents residing in the apartments. The board would determine what restrictions or specific requirements needed to be met by the owner.

Motion was made by Wallace to accept the recommendation of the Zoning Board for the special use permit of Donald and Elaine Withers for property located at 511 E. Bethalto Boulevard. DiPaolo asked if this motion meant they would be voting on specifications as presented by the Zoning Board, i.e., fencing, lighting. Mayor Bryant stated Wallace needed to be specific, amend or withdraw the motion. **DiPaolo made a motion to amend the motion made by Wallace to include the requirement of an eight (8') foot vinyl fence surrounding the storage area specific to the building plan as presented including lighting from west to east. The motion was seconded by Bourland.** Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye. Motion carried 6-0.

Mayor Bryant entertained a second to the Wallace motion (to accept the recommendation of the zoning board for the special use permit above) as amended. **Motion was seconded by DiPaolo.** Trustees Bourland, Oldendorph, Withers, Wallace, and DiPaolo voted aye. Flack voted nay. Motion carried 5-0.

Ordinance 2005-13 – Ordinance for Special Use Permit of Donald and Elaine Withers for Property Located at 511 E. Bethalto Drive. **Motion by Wallace, seconded by Oldendorph to approve Ordinance 2005-13 “Special Use Permit of Donald and Elaine Withers for**

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Property Located at 511 E. Bethalto Drive". Trustees Bourland, Oldendorph, Withers, Wallace, and DiPaolo voted aye. Flack voted nay. Motion carried 5-0.

MONTHLY ZONING ADMINISTRATOR'S REPORT

The zoning administrator's report was reviewed showing fifteen new residential dwellings. Total value of new construction, improvements, upgrades, etc. for the month was \$2.5 million dollars.

MONTHLY TREASURER'S REPORT

Motion by Bourland, seconded by Withers, to approve the Treasurer's Report for the month of April 2005. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

REPORTS FROM COMMITTEES

A finance committee meeting was called by the Mayor for Tuesday, June 14, 2005 at 7:00 p.m.

WATER DEPARTMENT BILLS

Motion by Withers, seconded by DiPaolo, authorizing payment of bills in the amount of \$142,225.76. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

GENERAL FUND

Motion by Bourland, seconded by Wallace, authorizing payment of bills in the amount of \$101,011.64. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

LIABILITY FUND

Motion by Withers, seconded by Oldendorph, authorizing payment of bills in the amount of \$61,954.35. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

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AUDIT FUND

Motion by Withers, seconded by Bourland, authorizing payment of bills in the amount of \$1,500.00. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

MFT FUND

Motion by Bourland, seconded by Oldendorph, authorizing payment of bills in the amount of \$537.13. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

GARBAGE FUND

Motion by DiPaolo, seconded by Wallace, authorizing payment of bills in the amount of \$42,461.76. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

TIF FUND

Motion by Withers, seconded by Oldendorph, authorizing payment of bills in the amount of \$44,048.28. Trustees Bourland, Oldendorph, Withers, Wallace, Flack, and DiPaolo voted aye, nays-none. Motion carried 6-0.

Mayor Bryant announced the next scheduled board meeting for Tuesday, July 5, 2005 at 7:30 p.m. for the Village Board and 7:00 p.m. for the Water Board.

Having no further business, a **motion by Bourland, seconded by Flack, to adjourn the meeting at 9:00 p.m.** All members present voted aye viva voce. Motion carried 6-0.

Martha L. Smith, Village Clerk

Steve A. Bryant, Mayor