

**VILLAGE OF JOHNSBURG
JULY 16, 2024 REGULAR MEETING
OF THE PRESIDENT AND BOARD OF TRUSTEES**

President Hettermann called the meeting to order at 7:00 p.m. in the Village Hall.

Attendees

Trustee Beth Foreman
Trustee Mike Fouke (absent)
Trustee Josh Hagen
Trustee Greg Klemstein
Trustee Scott Letzter
Trustee Jamie Morris
Village Administrator Claudett Sofiakis
Assistant Village Administrator Vinny Lamontagna
Chief of Police Jason Greenwald
Attorney Michael Smoron
Special Projects Coordinator Rick Quinn

AUDIENCE PARTICIPATION- Tom Curry of 2017 Camden Court reported that the roof collapsed on the JuggerDoon building.

Sarah Hagen of 3910 Pitzen Road attended on behalf of the Johnsburg Area Business Association to expressed that news regarding board decisions does travel.

Michael Maritich of 10705 Chukar Court, Richmond, Illinois attended on behalf of Pallet Partners and expressed his hope that a solution can be found.

OMNIBUS AGENDA - Trustee Foreman moved to approve the Omnibus Agenda. Trustee Letzter seconded the motion. All Trustees voted aye on the roll. Motion carried.

- Move to approve the minutes of the June 27, 2024 Special Meeting of the President and Board of Trustees
- Move to approve Ordinance 24-25-04 Amending Chapter 3 Administration of the Johnsburg Municipal Code

- **Disbursements**

• General Fund	\$551,294.85
• MFT	\$121,807.47
• Waterworks & Sewage Fund	\$ 53,984.96
• Golf Course Fund	\$ 18,846.87
• Debt Service/SSA Fund	\$ 460.00
• Total All Funds	\$746,394.15

NEW BUSINESS

APPROPRIATIONS HEARING - Michael Smoron opened up the hearing on the proposed FY 2025 Appropriation Ordinance at 7:06 p.m. He explained the purpose of the hearing and asked for public questions or comments. With no public input, the hearing closed at 7:07 p.m.

ORDINANCE 24-25-03 APPROPRIATION ORDINANCE - Trustee Morris moved to approve Ordinance 24-24-03 Making Appropriations for General and Corporate Purposes for the Village of Johnsburg for the Fiscal Year Beginning May 1, 2024 and ending April 30, 2025. Trustee Foreman seconded the motion. All Trustees present voted aye on the roll. Motion carried.

LIGHTING ORDINANCE – The Board performed a first read of Ordinance 24-25-05 Amending Chapter 12, Nuisances of the Johnsburg Municipal Code adding 12.13 Outdoor Lighting Regulations. Trustee Morris explained that the Ordinance Committee developed the ordinance to put in place safety, security, and energy efficiency regulations, and to insure that lighting is not intrusive to neighbors. Trustee Foreman expressed her support for the regulations and discussed issues she has experienced with a neighboring spot light shining off of the pond and casting light into her home. Trustee Hagen expressed concern with the requirement to reduce lighting at 2:00 a.m. President Hettermann explained that the concern is when lights spill over onto neighboring properties and if the lighting is screened and cast down it won't be a problem. He added that it is understood that businesses need to provide lighting for security. Trustee Hagen questioned the lighting plan requirements and if they would apply to existing businesses. President Hettermann remarked that if there is a complaint regarding the lighting at an existing business, they would be asked to bring their lighting into compliance. The matter will be included on the next agenda for consideration by the Board. Assistant Administrator Lamontagna stated that he will review the ordinance to see if some additional changes should be made to address the concerns raised.

PRESIDENT'S REPORT – President Hettermann reminded all that the Party in the Burg event is July 26th.

2604 CHAPEL HILL ROAD - Trustee Letzter moved to authorize correspondence regarding 2604 Chapel Hill Road. Trustee Morris seconded the motion. President Hettermann provided a draft letter to the Board in response to zoning issues on the property. He explained that the board cannot authorize the non-compliant activity as the matter needs to go through the zoning process. Attorney Smoron concurred and explained that the process insures that there is a public hearing and surrounding property owners are notified of a proposed zoning change. Trustee Foreman expressed her support of the letter. She stated that she reviewed zoning requirements and options and it appears that the biggest obstacle is the lot's size which does not meet the requirements of the zoning districts the property owners are seeking to pursue. She remarked that it sets a bad precedence to change Village ordinances when an isolated incident does not conform and she believes B-1 zoning is appropriate for the property. President Hettermann concurred restating that the Board cannot simply authorize the activity.

Special Project Coordinator Rick Quinn discussed the history behind how the Village's zoning ordinances were established. He explained that zoning violations are brought to the Village's attention through complaints received, which is the case in this matter. He stated that Village expended a lot of money and effort planning for the community. Professionals were hired to guide and assist, and meetings were held with residents and other stakeholder to get input when establishing the ordinances. He added that through those efforts is how the ordinances were written and there is a reason why they are written the way that they are. He stated that the ordinances are regularly revisited to insure that they remain current, so when the Village is asked to change a zoning ordinances, it's important to realize that much time and effort is spent developing them and should be heavily considered.

Trustee Hagen stated that he opposes the content of the letter. He added that he understands and appreciates the work that went into developing the plans, but plans change and ordinances are meant to be changed. He acknowledges that the property owners are in violation of the ordinance but opined that if the Village is inflexible, business owners won't want to move forward in the Village. He stated that B-1 zoning works for the gym but it will not support the rest of the property owner's business activities.

Trustee Foreman stated that regulations are in place for a reason and were established through a process. She explained that the inherent problem with the property is that it is too small and questioned which zoning classification Trustee Hagen proposes to change to accommodate the situation. Trustee Hagen suggested gyms be added to the industrial district. Trustee Hettermann questioned the zoning of Trustee Hagen's business property. Trustee Hagen stated his property is zoned I2. Trustee Foreman pointed out that Trustee Hagen has a larger parcel that can meet the industrial zoning requirements but the subject property cannot. Trustee Hagen agreed but questioned what makes the 2-acre minimum the correct size. Trustee Foreman explained that setbacks, lights, noise and other factors weigh in when determining appropriate lot sizes.

President Hettermann stated the staff is charged with providing citizens information and guidance based upon the Village's ordinances and when the violation was brought to the Village's attention, they met with Mr. Elser and his partner. Based upon the information provided at that meeting, it was determined that B-1 zoning could accommodate Mr. Elser's desired use of the property and he was agreeable to that. Village Administrator Sofiakis stated that it is not just a question of allowing a gym on the property. She explained that there are several businesses currently operating on the property and there is concern that what the owners are proposing to do will overburden the property. She explained that how parking, septic, bathroom facilities and other health department requirements are being met is questionable and pointed out that several parking spaces are situated in the County's right of way. She advised that all of those factors should be considered before taking an action that creates a situation that the property cannot support. Trustee Hagen countered that meeting health department and other agency requirements is on the property owner, not on the Village. Ms. Sofiakis explained that because the Village is being asked to permit something and zoning consideration is being requested, they are Village concerns. She pointed out that the situation is no different to when platting new developments, the developer is required to prove that each lot can support a septic system before the Village approves it. In this case the property owners need to show that they can comply with all regulations.

President Hettermann explained that he does not want to direct the property owners to pursue something before the Planning and Zoning Commission that we believe cannot be supported and the letter provides some direction. He offered Mr. Elser an opportunity to respond. Mr. Elser stated that he is fighting for the gym owner and believes ordinances can be changed. He explained that at his first meeting, he believed B-1 would work and then later determined that it would not support his business needs. He stated that throughout the process he was not asked about the nature of his business. Attorney Smoron explained that the process of the public hearing is to provide the opportunity to share information regarding the business activities and facilities on the property and to notify surrounding property owners of the intended plans for the property. He remarked that it is an unusual situation, which he does not expect will occur again, as this is the first time someone has represented to the Village that the realtor misrepresented the zoning of the property; and the buyers, buyer's attorney and no one else associated with the transaction examined the uses allowed in the zoning district before purchasing the property. Mr. Elser confirmed that to be the case.

Attorney Smoron stated that the Village has never encountered a situation in which someone purchased commercial property without checking to see what can be done with the property. He questioned if a zoning contingency was part of the real estate contract. Mr. Elser stated that he does not believe there was a zoning contingency. Attorney Smoron stated that is a very unusual situation which the Village has never encountered as typically representatives check into the allowable uses for the property before purchasing commercial real estate. He reiterated that if there's going to be change in zoning, the matter needs to be heard before the Planning and Zoning Commission at a public hearing and through that process is where the details come out regarding how the property is being used, what is on the property and how parking and other requirements are being accommodated. He added that neighboring land owners are also given the opportunity to comment on the request.

Attorney Smoron questioned what Mr. Elser's attorney has advised. Mr. Elser stated that he hasn't looked into it with his attorney as he was waiting to see what he could work out with the Village. Trustee Hagen stated that he understands the matter needs to go before the Planning and Zoning Commission but he feels the matter has ramifications beyond this instance. Trustee Foreman asked for examples of those ramifications. Mr. Elser responded stating that he has four businesses and plans to open up more businesses which perhaps he will not bring to Johnsburg. He stated that he does not believe he is overburdening the property and questioned why a variance was allowed on the property in the past. Motion carried with Trustees Foreman, Letzter, and Morris voting aye, Trustee Klemstein abstaining and Trustee Hagen voting no.

NON-HIGHWAY VEHICLES – Trustee Hagen raised questions regarding the liability associated with allowing non-highway vehicles on the road. He questioned if the Village carried additional insurance for the activity and if the allowance is listed separately on the policy. Ms. Sofiakis stated that the Village does not carry separate insurance for non-highway vehicles and explained that they are no different than any other vehicle traveling on the roadway. She added that the State authorizes the activity. Trustee Hagen stated that the State allows local municipalities to regulate them and questioned if because we allow them, is the Village liable if an incident occurs. Attorney Smoron explained that the circumstances would determine who is liable. He explained that the question regarding the Village's liability would be related to whether the Village did something wrong or did something by omission that caused an accident. He added that the Village is covered under the Tort Immunity Act. Attorney Smoron stated that there was much discussion regarding liability prior to the Board adopting the initial ordinance regulating the activity.

Trustee Hagen questioned the Village's liability for travel on private properties. President Hettermann explained that the Village does not direct people to travel on properties that have not been authorized by the property owner. Attorney Smoron stated that if the property owner posts the property as "no trespassing" the Village can pursue enforcement action. Trustee Hagen discussed a list of properties on which he has observed non-highway vehicle travel, and the activity is not supported by an agreement with the Village. He stated that the Village has three agreements in place with private property owners but many properties are being used without agreements and questioned if they should be pursued. Attorney Smoron stated that if the land owner has no objection to the use of their property without an agreement, the Village does not need inject itself into the situation. If people are traveling on those properties without authorization and the owners do not support the activity, they should install no trespassing signage and the Village can enforce it. President Hettermann pointed out that many of the properties listed by Trustee Hagen are business properties that welcome the business generated by non-highway vehicle travelers. Trustee Hagen explained that he wants to protect private property owner's rights. President Hettermann agreed and stated that the Village does a lot to communicate the proper use of non-highway vehicles emphasizing that it is a privilege and that enforcement will be pursued against violators. He urged that we continue to work with the local cart clubs to get word out as well.

ADJOURNMENT – Trustee Hagen moved to adjourn the meeting. Trustee Letzter seconded the motion. All Trustees voted aye on the roll. Motion carried at 8:26 p.m.

Respectfully Submitted,

Claudett Sofiakis
Village Administrator