

**VILLAGE OF JOHNSBURG
FEBRUARY 22, 2024 SPECIAL MEETING
OF THE PRESIDENT AND BOARD OF TRUSTEES**

President Hettermann called the meeting to order at 7:03 p.m. in the Village Hall.

Attendees

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

AUDIENCE PARTICIPATION – Tom Kartheiser of 2885 Bay Meadow Lane, McHenry discussed the positive impacts the Community Sailing School has had on his life and on the community. He shared some of Sailing Schools key accomplishments and future goals and asked the Village to compromise.

Lori Kirkeilie of 4018 Pitzen Road, Johnsburg discussed the positive impact the Yacht Club has had on her family and the many children who participated in the Sailing School's programs over the years.

Jim Grezaldo of 26423 W. Prospect Avenue, Antioch stated that he had a brief experience with the Sailing School having taken an adult sailing class and remarked that the experience was positive. He discussed the collaboration with members who were very supportive and the benefits to kids by providing them something to do that gets them out in the fresh air and off of their screens.

Lilly Lorraine Truetelaar of 1697 Saddle Hill Road, Libertyville stated that she started with the Sailing School in 2012 as a student and the experience transformed her as a person. She explained that she is now an instructor and has observed students evolve throughout the summer, becoming more confident as they develop leadership skills. She expressed that she wants to see the Yacht Club stay for years to come.

Silvia Bryson of 28792 Manitou Trail, McHenry discussed her husband's growing involvement with the Yacht Club after moving to the area six years ago and having bought a boat from a fellow Club member. She discussed her efforts to clean up the lakes and how she eventually became involved with the Yacht Club too. She explained that she is now its treasurer and in that capacity has become aware of the financial challenges of the club and its members. She stated that providing boat storage is essential to the club and discussed how it helps entice members. She added that some members can only participate if it is affordable and that removing or eliminating the use of the back lot for boat storage jeopardizes the club's future.

Hollis Arnold of 2114 Church Street, Johnsburg stated that she hopes the board votes in support of the Yacht Club and remarked that she does not know what started the issue and doesn't understand why it can't be worked out. She added that the Yacht Club is part of what keeps the small town feel in Johnsburg.

Tom Curry of 2017 Camden Ct, Johnsburg attended regarding the non-highway vehicles using Jack Pease's property in Dutch Creek Estates to access Spring Grove Road. He expressed that the crossing is dangerous and wants to know what is being done about the situation.

Laura King of 2718 Tichfield Terrace, Johnsburg asked that the Board not approve the ordinance on the agenda and expressed concern regarding the language regulating the burden of proof. She stated that she feels the timing of the ordinance is convenient based upon what is happening at the Yacht Club. She added that she has been doing a lot of research on the matter and read from a Chicago Tribune article regarding the merging of Sunnyside and Johnsburg in 1991, which discussed the zoning of properties at that time. She asked that the Board not vote on the ordinance and eliminate the third party litigation.

Lilah Van Hyfte of 1302 Old Bay Road, Johnsburg stated that she is 12 years old has been a student of sailing school since she was 5. She discussed her positive experiences learning to sail and how she would be lost without sailing. She explained that she now has her own sail boat and sails from her house to the Yacht Club on race nights. She added that she is proud to be part of the Sailing School and hopes to be an instructor in the future to teach other children how to sail.

Jennifer Van Hyfte of 1302 Old Bay Road, Johnsburg stated that she grew up along the Mississippi River and enjoyed boating for years so she and her husband sought property along the water which attracted them to Johnsburg. She added that she and her husband have been involved with the Sailing School for the last eight years and discussed the efforts made by its members. She expressed her appreciation that her kids are engaged in positive learning and not sitting on their devices and stated that she hopes a way can be found to preserve the Club's history and encourage and support its future.

Kimberly Larsen Wilken of 4104 Pitzen Road, Johnsburg stated that she has been going to Yacht Club for fifty years. She explained that sailing is something that you can enjoy on your own which she believes is ideal for people who are not interested in team sports as was the case with her son. She discussed the Yacht Club's history and what makes sailing special to her. She referred to an article in the Chicago Tribune which reported that no other body of water in the world has been home to as many boat racing champions as the Chain of Lakes.

Rob Bryson of 28792 Manitou Trail, McHenry attended to share information regarding the Pistakee Yacht Club's operations. He stated that the Yacht Club has struggled and the approach to keeping the Club healthy was to grow. He discussed the Yacht Club's growth strategy which includes use of the back lot for boat storage. He stated that last year they had approximately 30 boats and trailers stored on the back lot and explained that members storing their boats on the lot pay additional fees and are major contributors to the Club. He responded to references describing the back lot as a junk yard and stated that the majority of the boats and trailers stored on the lot are regularly used, but agreed with the Village that there were some exceptions which have been addressed. Mr. Bryson discussed his alarm when the Club received the Village's letter because he was recruiting people at that time and offering boat storage on the back lot. He stated that in negotiations, the Yacht Club expressed a desire to store fifty boats on the back lot as part of their growth strategy and explained that the Club has a benefactor who buys boats, gets people interested in sailing and then sells the boats to them. He added that the Club would like to establish a dingy fleet enabling the Club to store more boats on the property because they are smaller in size, measuring approximately 4'x13'. He stated that they have also discussed expanding the type of sailing offered such as cruising sailing, which will require more boats. He explained that if the Yacht Club is limited to sixteen boats they would need to change their strategy, making it an exclusive club charging members more money and if that were to occur it would put him out as he is retired and on a fixed income. He questioned what he can tell Club members since he cannot tell them that the back lot will be available so they will have to seek other storage alternatives, sell their boats or join other clubs which members have already done. He expressed a desire to come to an agreement to resolve the matter.

Wynne Oeffling of 5013 Hickory Lane, McHenry stated that he is not a member of the Pistakee Yacht Club but attended to share his thoughts about who would be affected if the variance is disregarded and boats are forced off the water. He discussed his positive experiences through the Community Sailing School and the leadership skills taught through the program, which contributed towards his ability to become a member of the sailing team at Marquette University.

Jillian Meyer of 5126 Tall Oaks Drive, Ringwood stated that she was a student at the Sailing School for four years. She discussed the negative impacts that would be experienced if the Yacht Club is forced to close down and remarked about the great memories she experienced and positive skills taught to kids through the Sailing School.

Quinn Sharp of 403 Cary Woods Circle, Cary attended to discuss the positive impact the sailing school had on him. He stated that Sailing School opened him up to new friendships, possibilities, and jobs and has become his favorite place to spend the summer. He discussed many things he's learned in relation to sailing such as math, science and engineering as well as valuable leadership, navigational and decision making skills. He stated that he is the best person he can be because of the Sailing School and asked that it not be closed.

Lyle Jacobson of 403 Cary Woods Circle, Cary discussed his joy of boating and explained that he grew up on the Fox River and boated on the Chain of Lakes since he was a kid. He stated that he was looking for something for his kids to do and got them involved with the Sailing School. He discussed the positive impact the School has had on kids teaching them leadership, friendship, safety, responsibility and situational awareness.

Liam Sharp of 403 Cary Woods Circle Cary, attended in support of the sailing school and stated that he would do anything to support them because of the positive impact it has had on him. He stated that he has developed valuable friendships through the School and explained that he was a shy kid and the School created an environment that made him feel comfortable in being himself and helped him develop social skills. He added that the Sailing School has inspired him to be a leader and has led him to pursue a military path through the Naval Academy. He stated that he considers himself lucky to have become a sailor through the Community Sailing School and wants other kids to have the same opportunity.

Kimberly Jacobson of 403 Cary Woods Circle, Cary discussed the positive impact the Sailing School had on her two sons. She explained that her income was limited but her kids were able to participate thanks to partial scholarships offered through the Sailing School. She stated that closing the Sailing School because of closing the Pistakee Yacht Club would be detrimental to the community. She discussed the leaders her sons have become and how they desire to share their positive experiences with other children.

Linda Morgan of 906 Highland Avenue, Wauconda discussed the positive impact the school has had on her son. She explained that her son sailed for two summers with the Sailing School and has become obsessed with sailing. She discussed how her son returns home from the Yacht Club, excited to share the experience he had in Sailing School that day. She stated that he hopes to be an instructor in the future so that he can pass down what he learned to other children and has expressed his desire to attend a college that offers sailing as a sport.

Cole Richard Morgan of 906 Highland Avenue, Waucondo stated that he started sailing two years ago and didn't realize the impact it would have on his life. He discussed how it has helped him learn responsibility and developed his character which helped develop a new pathway for him. He stated that the Sailing School has become very important to him and other kids. He discussed the fond memories he

has of the Sailing School and the friendships he developed and stated that it would be terrible to take away the opportunity for other kids to learn to sail.

Jeff Flagg of 1714 Tall Tree Lane Johnsbury stated that he was not in attendance to speak on behalf of the Sailing School but wanted to express his disappointment that the matter has gotten this far. He stated that there are many ordinances in the Village which are not enforced referencing a broken down car backed in his neighbors driveway which nobody has done anything about. He stated that the matter regarding the Yacht Club appears to be a personal attack on a business and alleged it may be a vendetta by a Village employee who owns a lot adjacent to the property.

John Katzenmeyer of 2515 Long Lane, McHenry stated that he grew up in the community and discussed a book written about Johnsbury and the Pistakee Bay, referencing a chapter dedicated to the Bay in which the common theme is boats. He described the boats used by the Yacht Club as the Club's life blood and stated that he does not think it's the intent of the Board to shut down the Yacht Club, but if they are denied the ability to have boats on the property, it will be detrimental to the Yacht Club's operations. He asked the Board to think of the ramifications when making decisions regarding ordinances. He stated that boats are not solely recreational, they are also for tourism and commerce and questioned how an amicable resolution can be found.

Kirk Donald of 1217 Acre Lane, Johnsbury stated that he walks his dog by the Yacht Club daily and sees the lot. He read a quote by one of Johnsbury's founding fathers, Nicholas Frett in which he related to his experience when he first came to Johnsbury and questioned how we can honor the spirit of what was intended by those first settlers. He remarked about a development that was approved to allow five housing units on one acre and stated that by comparison, the Yacht Club is looking to put fifty boats on an acre. He discussed how pleasant it is to see the sail boats out on the Bay and stated that the Yacht Club is an asset to the Village.

Patricia Smarto of 25400 W. Cedar Crest Lane, Lake Villa stated that she sailed when she was in her teens and twenties and later took sailing class at the sailing school where she met wonderful people and polished her skills. She stated that she sells waterfront real estate and oftentimes tells people looking to move to the area about the Yacht Club and what it has to offer. She stated that the Yacht Club helps put Johnsbury on the map.

Will Plant of 827 Woodhill Lane, Lake Villa, stated that he is not a member of the Pistakee Yacht Club but rather a member of Lake Geneva Yacht Club and his daughter attended the Community Sailing School. He remarked that the Yacht Club is a well known institute and discussed the regattas hosted by the Pistakee Yacht Club naming several well known sailors that have sailed at the Club.

Mary Ross of 290 Cartig Drive, Algonquin stated that she is a volunteer at the Sailing School and plans to be a future instructor and was able to participate thanks to a scholarship. She explained that her father and uncle spent many years racing at the Yacht Club and discussed the important role sailing played in her life following the passing of her father. She discussed how sailing taught her decision making and responsibility and helped her develop good leadership skills. She stated that she looks forward to giving back to the community by teaching others as an instructor at the Sailing School.

President Hettermann stated that nobody on the board wants to see the Community Sailing School or the Pistakee Yacht Club go away. He explained that misrepresentations are being made and discussed how the issue first started years ago when the back lot became a junk yard and the Village had to get involved to clean up the property. He stated that complaints were received again last Spring regarding the back lot and since that time the Village made several attempts to work with the Yacht Club to clean up the property and amicably resolve the matter. He added that Yacht Club representatives acknowledged that

junk and dilapidated boats were being stored on the property and made efforts to clean up the property, but they maintained that they are allowed to rent the property for boat storage based on a purported variance granted by the County in 1970. He explained that the Village reviewed the matter and disagrees with the Club's position. He stated that he remains hopeful that an amicable resolution can be reached and reiterated that nobody on board wants to see the Yacht Club and Sailing School to go away.

A member from the public questioned why the complainant was not in attendance. President Hettermann explained that the Village often receives anonymous complaints. Ms. King stated that they received only one complaint. Tom Kartheizer added that the complaint was false as it stated that Sailing School was renting space on the back lot. He stated that the Sailing School does not rent space at the Yacht Club on the back lot or for anything. In response Trustee Foreman questioned Mr. Bryson's statements made related to renting space on the back lot at a very subsidized rate. Mr. Bryson stated that their members pay a fee to use the back lot for \$125 which is one of the fees they pay. Ms. King added that they also pay a membership fee which is \$150 for a social membership and \$700 for voting members, but stated that social members cannot rent space on the back lot. Mr. Bryson corrected that social members can rent space on the back lot for dingys. Ms. King concurred.

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

- Move to approve the minutes of the February 6, 2024 Regular Meeting of the President and Board of Trustees
- Move to approve Proclamation in support of the Mayor's Monarch Pledge
- Move to approve a Resolution Proclaiming No Mow May

Disbursements

General Fund	\$156,888.02
Waterworks & Sewage Fund	\$ 3,740.71
Golf Course Fund	78.96
Total All Funds	\$160,707.69

PRESIDENT REPORT – President Hettermann reported that Redwood has informed the Village that they will not be moving forward at this time with their development due to rising construction and other related costs. As a result, the Village will not be moving forward with the watertower. He added that no further engineering will be pursued at this time but the easement has been secured to extend the water main from the future tower to Johnsburg Road.

OLD BUSINESS

ORDINANCE 23-24-29 AMENDING THE JOHNSBURG ZONING CODE - Trustee Foreman moved to approve Ordinance 23-24-29 Amending Section 6 Nonconforming Buildings and Uses, by adding Section 6.10 Burden of Proof; Section 7.1 Accessory Buildings and Structures by adding Section 7.1-11, Limited Personal Storage and Section 20, Violations: Penalty of the Johnsburg Zoning Ordinance. Trustee Hagen seconded the motion. Trustee Foreman remarked that the ordinances goes well beyond the Yacht Club as it applies throughout the Village. She expressed concern with placing the Yacht Club in a negative financial position in relation to the passing of the ordinance and questioned if considerations could be provided. Trustee Foreman applauded the young people in attendance who spoke at the meeting and reiterated that nobody at the Village wants to harm the Yacht Club or Sailing School. She added that the discussions have been ongoing for months and the Village still hasn't heard what number of boats the Yacht Club deems necessary. She remarked that the property looks much better today than it did six

months ago but added that there is still disinformation being circulated amongst members of the Club and the Yacht Club is not being truthful with its membership. She pointed out that the Village did not start the litigation.

Trustee Hagen expressed concern that the ordinance has a number of unintended consequences. He stated that he understands that the Village's objectives is to reduce litigation costs and instances, but by changing the burden of proof to residences and business owners, the Village is passing the cost on to them. He explained that there are a number of non-conforming buildings on his property and questioned what will prevent someone from submitting an anonymous complaint requiring him to prove that the structures were pursued properly. He further remarked about the costs that would be involved in trying to provide the proof and added that the same would apply to properties along the river with garages situated on the lot line. Trustee Hagen discussed the previous litigations that drove the proposed text changes. He added that he feels the Village is placing too many regulations on its residents.

Trustee Foreman stated that the intent of the ordinance is to address situations in which an individual has been notified of a violation yet drags their feet, pays a \$25 fine and the violation does not get addressed. Attorney Smoron pointed out that Illinois case law already provides that the burden is on the property owner to prove they are allowed to use their property in a non-conforming manner. He explained that the purpose for putting the language into the Village's Zoning Code is for ease of reference by residents and the Village's staff when presented with someone who wants to challenge the requirement. Rather than having to pull case law, they can refer to the Village's ordinance. Mr. Smoron stated that the same expectation is relied upon by all of the communities his firm represents. He explained that it is not for Village to have to explain why the person is exempt, it is up to the property owner to show why they can violate the ordinance.

Trustee Hagen expressed concern that there are a lot of nonconforming uses in the Village and if the language is put in place, it could have great implications. Attorney Smoron stated that he is not aware of any instance where a judge required someone to tear down a structure that has been in place for years simply because someone moved to the area and questioned the conformance of the structure. Trustee Hagen questioned the shift in responsibility related to burden of proof. Attorney explained that there is no shift, the proposed text is consistent with Illinois law and is currently applicable. He further explained in approving the ordinance, the Board would just be placing the language in its ordinance so that staff has it to rely on rather than having to pull case law. He reiterated that the concept is not new as property owners are required under Illinois law to prove they have a legal non-conforming use. He reinforced that expectation is consistent in all of the municipalities his firm represents such as Algonquin, Bull Valley, Carpentersville, Deer Park, Harvard, Hebron, Genoa, Lake in the Hills, Island Lake, McHenry, Kirkland, Pingree Grove, Prairie Grove, Marengo, Richmond, Ringwood, and where he has served as special counsel in West Dundee, East Dundee, Galesburg and Geneseo. When there is a situation where there is an apparent violation of ordinance, it is up to that person to explain why they are exempt from the ordinance. Trustee Klemstein questions the Village's exposure to litigation if the State changes the law and the Village's ordinance conflicts with the changes. Attorney Smoron explained that his firm monitors changes in the law and recommends ordinance changes to the communities they represent as was done with the the Paid Leave Act this past year.

Trustee Hagen expressed concern that residents will not be able to provide documents in support of a non-conforming use on their property and questioned how long building records are retained by the Village. Attorney Smoron explained that the Village is not allowed to destroy documents without permission from Illinois Archive Commission. He added that conditional uses and variances are typically recorded against the property.

Attorney Smoron reiterated that the proposed text amendments are in response to several meritless suits that the Village has endured. He added that one can draw on hypotheticals but that the language is based on Illinois case law.

Trustee Foreman moved to continue the matter to the March 5, 2024 meeting. Trustee Fouke seconded the motion. President Hettermann directed the board to notify staff of any additional information needed prior to the next meeting. All Trustees voted aye on the roll. Motion carried.

NEW BUSINESS

HILLER PARK FIRE PIT - Trustee Fouke informed the Board that the Community Affairs Committee has been discussing creating a defined location for a fire pit in Hiller Park for special event bonfires rather than having the fires in the baseball field area which organizations have been working to improve. Trustee Fouke discussed a location situated in an open area between the multi-use field and walking path. He stated that the Committee is open to either a raised or flat pit but flat pit is more ideal for mowing. Assistant Administrator Lamontagna stated that a water source is located nearby and the proposed location is at least 25 feet from the closest tree and 25 feet from path. The intent is for the pit to be used for special events and offered as part of the park shelter rental.

ORDINANCE 23-24-34 – The Board performed a first read of Ordinance 23-24-34 Amending Chapter 8 Parks and Playground of the Johnsburg Municipal Code adding language regarding fire pits in Village Parks and restricting alcohol possession and consumption in the park. The ordinance will be included on the next meeting agenda for action.

ADJOURNMENT – Trustee Fouke moved to adjourn the meeting. Trustee Foreman seconded the motion. All Trustees voted aye. Motion to adjourn was carried at 9:45 p.m.

Respectfully Submitted,

Claudett Sofiakis
Village Administrator