

CALL TO ORDER:

President Bartels calls to order the Committee of the Whole Meeting of the Village Board at 7:02 pm.

ROLL CALL:

Roll: Paul VanOstenbridge, Dan O'Leary, Jim Carlini, and President Bartels.

Absent are Michael Ruffulo, Frank Scarpelli, Jr. and Rob Gorman.

Also in attendance are Paul Nicholson, Joe Heinz and T.J. Moore.

Motion to move up agenda item number 2 by Carlini/VanOstenbridge.

Roll: 4 Ayes (VanOstenbridge, O'Leary, Carlini, President Bartels), 0 Nays, Motion carries.

CONSIDERATIONS:

2.) Mining Regulation (Land Use Regulation & Revenue Alternatives

Mr. Nicholson introduces James Keeling and Carol Lockwood of Hinshaw & Culberton, LLP. Mr. Nicholson states that the Village sought to identify experts for briefing with respect to the laws of the State of Illinois regarding land use and control with respects to mining operations and revenue for Home Rule municipalities.

Mr. Keeling states that the extracting of mineral and the sale of mineral products is not very wide spread, but there are some municipalities that do this. Trustee O'Leary informs the attorney's that a large part of the property is in Kane County, which is not solely East Dundee. The processing is within East Dundee but the mining is outside of the Village.

Mr. Keeling states that there are three Home Rule municipalities that have gone into this area without being in an annexation agreement. These municipalities are McCook, Bedford Park, and Thornton. Thornton's situation is not relevant as they entered into a number of agreements with one particular company. Bedford Park replaced an entire property tax with a mining extraction fee and they charge on a per ton basis, however, they are in litigation at this time. McCook has levied a tax on the purchaser of the mineral products but do not tax the mining company. They charge by the ton, not percentage of sales. The State says that Home Rule municipalities have to follow statutes in order to have a Home Rule tax such as, Home Rule Occupation Tax and Home Rule Service Tax. However, the Omnibus Provision has to follow a series of five or six taxation Ordinances, but doesn't pre-empt any Home Rule imposed tax. This is important, as the tax is not based on the percentage, but rather the volume of mineral. McCook has not been challenged on this and the Ordinance is well done. Trustee O'Leary asks the fees and Mr. Keeling states that Bedford charges 12 cents/ton and McCook charges 8 cents/ton. Mr. Keeling is confident that McCook's approach is correct. However, if the Village imposes taxes on powerful persons, they may challenge it.

President Bartels asks what if the point of sale is outside the Village limits. Mr. Keeling states that McCook has a presumption that all sales and uses of mineral products in the Village and all shipments of mineral products from the Village are subject to tax until sale or use is not taxable, etc.

Trustee O'Leary states that the Plote office is in Elgin, the material is coming from Kane County, but the loading and processing is being done in East Dundee. Mr. Keeling states that this does cause him some concern and would need to look into this. He will send a follow-up memo.

Mr. Nicholson states that they also have other operations going on, like recycling. McCook levied the same fee on those operations as well. Whether they are taking something out or bringing something in, the same fee should apply. Trustee Carlini states that the fees should be market based.

Mr. Keeling states that municipalities are regulated. Many municipalities have Ordinances that address this even though you would think it would be pre-emptive.

Trustee O'Leary inquires how the Village communicates this to the State and the IDNR to ensure that processes are being followed correctly. Mr. Keeling suggests that it should be part of the special use permit process. He also feels, from his understanding of the zoning history, that this cannot be imposed after the fact. They are legally non-conforming and can only hope they would voluntarily comply.

Trustee Carlini inquires about a reclamation plan. Mr. Keeling states that at the Village can advocate to the State to enforce their reclamation plan and this may have some clout. He does encourage the Board to get those plans including the license and condition to license, mining plan, reclamation, and the plan for any operations in the Village, even if the Village didn't adopt an Ordinance as those are all bonded. The DNR encourages municipalities to be aggressive in reclamation standards. Mr. Keeling is working on getting a model Ordinance from Vandewalle.

Trustee O'Leary also would like to look at the existing operation in the Village and the reclamation of the Palumbo property and the process that goes with it. The Palumbo property is being filled, possibly for commercial or residential use. Mr. Nicholson states that they are moving in multi year reclamation. Mr. Keeling will look into the following issues and will get back to the Board by September 1.

- Point of Sale
- Business license area
- Clarifying the recycling issue
- Clarifying the one year statute of limitation for discontinued use

1.) Water Committee Report & Recommendation

Since Trustees Gorman and Scarpelli are not here, Trustee O'Leary suggests that the Water Committee meet one more time before they present the Clark Dietz proposal to the Board. This is based on the recommendation of the Committee after the site visits. Mr. Moore states that an option was presented to provide a small water study to examine where the Village is and what options exist as far as a shallow well versus a shallow and deep well combination. Other concerns are what quality of water is desired and what quality can be afforded. The cost for this study is \$18,000 and would take about 6 – 8 weeks. Mr. Moore feels that this is worth talking about. The Board should decide whom they want to work with and then get an engineer on board.

Mr. Nicholson suggests for Monday's meeting that a motion should be made selecting Clark Dietz and authorizing Staff to negotiate the agreement to provide for the second option, a deep and shallow well. This will come back to the Board for approval.

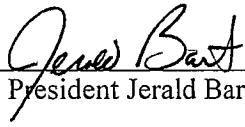
Although Mr. Moore is comfortable with Dietz, he feels that the Board should be comfortable with them as well; therefore, he has invited them to Monday night's meeting. Mr. Nicholson states that there will be a motion on next Monday's agenda. Trustee O'Leary recommends that the Water Committee meet at 6:30 pm before Monday's Board Meeting.


ADJOURNMENT:

Motion to adjourn the COTW meeting by Carlini/O'Leary at 8:30 pm.

Roll: 4 Ayes (VanOstenbridge, O'Leary, Carlini, President Bartels), 0 Nays, Motion carries.

Respectfully Submitted,
Susan Norton

By: 
President Jerald Bartels

Attest: 
Village Clerk Susan Norton

