



VILLAGE OF WILMETTE

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MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILMETTE, ILLINOIS HELD IN THE COUNCIL ROOM OF SAID VILLAGE HALL, 1200 WILMETTE AVENUE, WILMETTE, ILLINOIS ON TUESDAY, JULY 22, 2008.

The Village President called the meeting to order at 7:37 p.m.

Item:

1.0 ROLL CALL:

President	Christopher S. Canning
Trustees	Alan Swanson
	Lali Watt
	John Levin
	Mari Terman
	Karen Spillers
	Mike Basil

Staff Present:

Michael J. Earl, Village Manager
 Timothy J. Frenzer, Corporation Counsel
 Michael Braiman, Assistant to the Village Manager
 Barbara L. Hirsch, Deputy Village Clerk
 John Adler, Director of Community Development
 Lisa Roberts, Assistant Director of Community Development
 Donna Jakubowski, Director of Public Works
 Jim Dominik, Fire Chief
 Kyle Perkins, Deputy Police Chief

2.0 APPROVAL OF MINUTES:

2.1 Trustee Terman moved approval of minutes as amended of the Regular Board meeting held July 8, 2008, seconded by Trustee Watt. All voted aye, the motion carried.

2.2 Trustee Watt moved approval of minutes as amended of the Committee of the Whole meeting held July 8, 2008, seconded by Trustee Terman. All voted aye, the motion carried.

3.0 PETITIONS AND COMMUNICATIONS:

4.0 REPORTS OF OFFICERS:

Village Manager Michael Earl announced the cancellation of the August 12, 2008 regular Village Board meeting. He said that there will be a Committee of the Whole meeting of the Village Board on Tuesday, August 5, 2008 at 7:00 p.m.

4.1 Consent Agenda. Trustee Watt moved approval of the Consent Agenda as follows:

- 6.11 Minutes, Appearance Review Commission.
- 6.12 Minutes, Land Use Committee.
- 6.13 Appointment of the Land Use Committee as a Special Zoning Committee to review possible amendments to tent requirements in the Zoning Ordinance and Village Code.
- 6.14 Introduction of Ordinance #2008-O-53 amending the Village Code, Chapter 9 regarding tree canopy coverage regulations.
- 6.15 Adoption of Ordinance #2008-O-47 amending the Village Code, Chapter 9 and Chapter 20 regarding portable storage containers.
- 6.16 Adoption of Ordinance #2008-O-50 amending the Village Code, Chapter 9 for elevator code compliance.
- 6.17 ZBA Report, Case #2008-Z-39, 808 Chestnut regarding a request for a decibel variation to permit the installation of a stand-by generator in accordance with the plans submitted; adoption of Ordinance #2008-O-55.
- 6.18 ZBA Report, Case #2008-Z-40, 324 Prairie Avenue regarding a request for variations to allow the construction of a detached garage and parking pad in accordance with the plans submitted; adoption of Ordinance #2008-O-56.
- 6.19 ZBA Report, Case #2008-Z-42, 901 Harvard regarding a request for variations to allow the replacement of a 6' high solid fence with a 6' high capped shadow-box fence in a side yard adjoining a street in conformance with the plans submitted; adoption of Ordinance #2008-O-57.

- 6.21 Approval of Resolution #2008-R-26 approving investments as previously authorized in the Illinois Public Treasurer's Investment Pool (IPTIP).
- 6.22 Presentation of the Annual Treasurer's Report for the year ended December 31, 2007.

- 6.31 Minutes, Business Development Advisory Group.
- 6.32 Minutes, Housing Commission.
- 6.33 Minutes, Administration Committee.

- 6.34 Adoption of Ordinance #2008-O-41 amending the Village Code, Chapter 2 regarding minimum number of meetings for Boards and Commissions.
- 6.41 Approval of contract extension, Temple Display, Oswego, IL for holiday light decorations.
- 6.42 Adoption of Ordinance #2008-O-45 amending the Village Code, 1993, as amended, in Chapter 9, "Housing and Building Regulations" Section 9-15, "Development Regulations in Flood Hazard Areas," Appendix 9A, "Development Regulations in Flood Hazard Areas".
- 6.43 Adoption of Ordinance #2008-O-40 regarding disposal of surplus Village owned property.
- 6.51 Rejection of bids for the Automated License Plate Readers.
- 6.52 Adoption of Resolution #2008-R-24 authorizing the acceptance of a grant in the amount of \$9,909 from the Cook County Judicial Advisory Council for the purchase of one Global Positioning Tracking (GPS) Unit, Scene PD software and two laptop computers.
- 6.53 Adoption of Resolution #2008-R-25 authorizing the acceptance of a grant in the amount of \$9,160 from the Cook County Judicial Advisory Council for the purchase of a microwave wireless point to point Ethernet bridge.
- 6.54 Adoption of Ordinance #2008-O-51 regarding the disposal of one Fire Department engine and ladder truck.
- 6.55 Approval to waive the formal bidding requirements and authorize the Village Manager to purchase a used Quint at a cost not to exceed \$300,000 and to exceed the budgeted amount by not more than \$68,000 for the purchase of a used Quint.
- 6.61 Minutes, Judiciary Committee.
- 6.62 Introduction of Ordinance #2008-O-52 amending the Village Code, Chapter 9 and Chapter 20 to exempt from the 60-day affordable housing consultation process commercial developments with one or fewer dwelling units planned.
- 6.63 Introduction of Ordinance #2008-O-54 amending the Village Code, Chapter 11 to amend the provisions of the Class L liquor license.
- 8.1 Notice of vacancy, Community Relations Commission.
- 8.2 Notice of vacancy, Community Relations Commission.
- 8.3 Notice of vacancy, Board of Health.
- 8.4 Notice of vacancy, Plan Commission.
- 8.5 Notice of vacancy, Housing Commission.
- 8.6 Notice of vacancy, Youth Commission.
- 8.7 Notice of vacancy, Youth Commission.
- 8.8 Notice of vacancy, Youth Commission.
- 8.9 Notice of vacancy, Youth Commission.

- 8.91 Notice of vacancy, Community Relations Commission.
- 8.92 Notice of vacancy, Youth Commission.
- 8.93 Notice of vacancy, Board of Health.
- 8.94 Notice of vacancy, Youth Commission.
- 8.95 Appointment, Environmental and Energy Commission.

Trustee Terman seconded the motion. Voting yes: Trustees Swanson, Watt, Levin, Terman, Spillers, Basil and President Canning. Voting no: none. The motion carried.

4.2 Announcement of appointment of Tim Perry as chair of the Bicycle Task Force.

President Canning announced the appointment of Tim Perry as chair of the Bicycle Task Force.

5.0 REPORT OF THE LIQUOR CONTROL COMMISSIONER:

No Report.

6.0 STANDING COMMITTEE REPORTS:

6.1 LAND USE COMMITTEE REPORT:

6.11 Presentation of minutes of the Appearance Review Commission meeting held June 2, 2008 was handled with the Consent Agenda.

6.12 Presentation of minutes of the Land Use Committee meeting held June 11, 2008 was handled with the Consent Agenda.

6.13 Appointment of the Land Use Committee as a Special Zoning Committee to review possible amendments to tent requirements in the Zoning Ordinance and Village Code was handled with the Consent Agenda.

6.14 Introduction of Ordinance #2008-O-53 amending the Village Code, Chapter 9 regarding tree canopy coverage regulations was handled with the Consent Agenda.

6.15 Adoption of Ordinance #2008-O-47 amending the Village Code, Chapter 9 and Chapter 20 regarding portable storage containers was handled with the Consent Agenda.

- 6.16 Adoption of Ordinance #2008-O-50 amending the Village Code, Chapter 9 regarding elevator code compliance was handled with the Consent Agenda.
- 6.17 Zoning Board of Appeals Report, Case #2008-Z-39, 808 Chestnut Avenue regarding a request for a 1.85 decibel variation to permit the installation of a stand-by generator in accordance with the plans submitted; adoption of Ordinance #2008-O-55.

The request was handled with the Consent Agenda for a 1.85 decibel variation to permit the installation of a stand-by generator in accordance with the plans submitted. Ordinance #2008-O-55 was adopted with the Consent Agenda, authorizing the variation of this case.

- 6.18 Zoning Board of Appeals Report, Case #2008-Z-40, 324 Prairie Avenue regarding a request for a 3.03' side yard setback variation to allow the construction of a detached garage and a 10.03' side yard adjoining a street setback variation to allow the construction of a parking pad in accordance with the plans submitted; adoption of Ordinance #2008-O-56.

The request was handled with the Consent Agenda for a 3.03' side yard setback variation to allow the construction of a detached garage and a 10.03' side yard adjoining a street setback variation to allow the construction of a parking pad in accordance with the plans submitted. Ordinance #2008-O-56 was adopted with the Consent Agenda, authorizing the variations of this case.

- 6.19 Zoning Board of Appeals Report, Case #2008-Z-42, 901 Harvard Lane regarding a request for a 2' fence height variation and a fence openness variation to allow the replacement of a 6' high solid fence with a 6' high capped shadow-box fence in a side yard adjoining a street in conformance with the plans submitted; adoption of Ordinance #2008-O-57.

The request was handled with the Consent Agenda for a 2' fence height variation and a fence openness variation to allow the replacement of a 6' high solid fence with a 6' high capped shadow-box fence in a side yard adjoining a street in conformance with the plans submitted. Ordinance #2008-O-57 was adopted with the Consent Agenda, authorizing the variations of this case.

- 6.191 REMOVE FROM TABLE -Zoning Board of Appeals Report, Case #2008-Z-32, 2411 Greenwood Avenue regarding a request for a 1,459.39 square foot (20.27%) total floor area variation to permit the retention of a new home in accordance with the plans submitted.

Trustee Swanson moved to remove item 6.191 from the table, seconded by Trustee Terman. All voted aye, the motion carried.

Trustee Swanson moved to grant a request for a 1,459.39 square foot (20.27%) total floor area variation to permit the retention of a new home in accordance with the plans submitted, seconded by Trustee Basil.

David Najarian, attorney for the petitioner, reviewed the case as presented in the Zoning Board of Appeals (ZBA) report. He noted the new home was built according to the approved plans from the Community Development Department. The grade elevation was changed by the Engineering Department and he believed the grade calculation change was not communicated correctly. The Community Development Department has since instituted fail/safe protocols between the two departments. He believes the petitioner would have addressed the problem of grade calculation and built the home correctly if the Community Development Department had notified the petitioner of the need for amended plans. The petitioner and others involved in the building of the new home also missed the grade elevation change. The consequences of correcting the error would be catastrophic as the new home would have to be torn down. There was no intention to evade the requirement and the bulk character of the home is not impacted as the overall height of the home is below the required 35'. Mr. Najarian asked the Village Board to grant the variation.

President Canning asked how the letter dated August 3, 2007 addressed to Steve Maris and copied to Jeff Steele, JKL Consulting, from Jorge Cruz, Assistant Director of Engineering was handled by the petitioner.

Mr. Najarian said the petitioner addressed the issues in the letter regarding conforming height and the architect responded to the letter. Two weeks after the letter was sent, the Community Development Department issued the building permit and the petitioner wrongly assumed everything was in compliance.

Meg Maris, petitioner, 1200 Cleveland, said she is the builder for the new home. She noted the engineer for the project addressed the grading issues raised by the Village but also noted the discrepancy in the numbers relating to grade. Ms. Maris believes that with the new procedures put in place by the Community

Development Department, it will not be possible to have an error in new building plans regarding height or grade.

Trustee Swanson asked if Jeff Steele, JKL Consulting, was the engineer for Ms. Maris' project.

Ms. Maris said Mr. Steele was the engineer for the project.

Trustee Swanson reviewed the letter from Jorge Cruz, Assistant Director of Engineering, sent to Mr. Maris and Mr. Steele. The letter specifically states that Mr. Maris must verify the change of grade with Community Development. He said the Village is trying to provide fail/safe procedures for building permits but that does not remove the responsibility from the private sector to submit the plans correctly. He said the engineer must work with real USGS numbers and communicate with the architect.

Mr. Najarian said he is not excusing the engineer, architect or petitioner but he spoke to everyone involved and nobody was aware of the difference in calculations.

Trustee Swanson said the petitioner's civil engineer should have been aware of the difference in grade calculations.

Trustee Watt referred to the letter from Mr. Cruz noting the existing elevations and the recommended top of grade elevation.

Trustee Swanson said Mr. Cruz's letter specifically says "if the top of foundation is raised, it must be verified with the Community Development Department to ensure that the height of the building will remain conforming. Also, the elevation change needs to be shown on the architectural drawings for review and approval". JKL Consulting responded to the letter on August 15, 2007 saying "the architect shall be furnished with a set of revised plans to include this information on his drawings."

Ms. Maris said Community Development was copied on both the letters, and went ahead and issued the building permit so she believes that there was an error shared by her, the engineer and the Village. She said she believes the issue of the 628.12 grade elevation is the problem that caused the 4.68" inches over what is allowed. Ms. Maris said she has talked with the neighbors and they do not have a problem with the size of the new home that has been built.

President Canning asked Ms. Maris to clarify that her new home is the correct height.

Ms. Maris said the new home is under the required height but the first floor deck is too high due to the grade issue which was very confusing to her.

Trustee Swanson said the grade issue may be confusing to Ms. Maris but it should not have been confusing to Ms. Maris' civil engineer who is a trained, registered, licensed engineer who calculates grade on a regular basis. The grade issue should also not have been confusing to Ms. Maris' architect who also calculates grade on a regular basis.

Ms. Maris said it was her job to know enough to catch the errors but the two points of grade reference were never an issue for her in previous projects.

Trustee Watt said she struggles with Ms. Maris' comment that the error shares joint responsibility. She understands that the Community Development and Engineering Departments have added extra steps to make sure that this type of error does not happen again. The fact that Mr. Cruz wrote the letter August 3, 2007 and Ms. Maris' civil engineer responded on August 15, 2007 tells her that it is not a process problem, the process worked. The problem seems to be between the civil engineer, architect and the people building the home. Somehow the information in Mr. Cruz's letter was not passed along. She struggles to figure out what the Community Development Department should have done differently.

Ms. Maris said the letter is one issue but there is still an issue with the grade elevation, which was the average of the two front setbacks and is not correct. She would still be over the grade height and asking for a variation.

Trustee Levin said Ms. Maris has mentioned that 200 Golf Terrace is most similar to her case. He believes that the case most similar to Ms. Maris' case is 320 Vista Drive. The first floor was built too high due to misunderstandings.

Ms. Maris said she is similar to both the cases of Golf Terrace and Vista Drive.

Trustee Levin said the Village Board referred the Vista Drive request to the Land Use Committee for a negotiation to the Affordable Housing Fund as a fine. He would like to recommend the same process for this case as he believes it is appropriate.

Ms. Maris asked the Village Board to grant the variation as she does not feel being referred to the Land Use Committee is appropriate. She believes even if she followed the correct paperwork she would still be over the grade height and need a variation. She still believes the error was a joint error due to the incorrect grade elevation provided to her.

Mr. Najarian said he disagrees that the Vista Drive case is similar as there was a problem with the basement for which the builder was responsible.

Trustee Levin asked for clarification of the grade elevation issue.

Mr. Najarian said the grade elevation is the number provided by calculating the two front corners of the property that are used by Community Development to determine the height of the first floor. That is the number Ms. Maris did not know she needed and did not have.

John Adler, Director of Community Development, said the 628.12 is the computed average of the side lot line at the front set back line. That is the elevation that would be used to calculate the first floor being less than 4' above that elevation and the total elevation being less than 35'.

Trustee Watt asked if 628.50 is one of the two numbers being averaged in the calculation.

Mr. Adler said no, 628.50 is the top of foundation as determined by the Engineering Department. The elevation for measuring deck height is now prepared by Community Development; it was not previously calculated and stamped on the architect's drawings.

Trustee Watt asked how the applicant would have known the number previously.

Mr. Adler said the applicant was meant to know the number by the stamp on the plans which told exactly how elevation was to be determined and the definition of grade. It was previously expected that the applicant would measure the two points of grade and build from those points. What staff has learned from some previous cases is that the measurement configuration was not happening and that is why the procedures have been changed.

Trustee Watt said if the grade was not calculated until after the fact, she is not sure why the current situation hasn't happened many times before in the building of new homes.

Mr. Adler said he does not have the answer to that question.

Trustee Levin said the top of grade as calculated properly is 628.12, the top of grade along the east side of the property should be 628.50, presuming that the top of grade on the west side would be lower?

Mr. Adler said it depends upon where engineering is taking the numbers from as they do not look at the front setback line or the side lot lines.

Trustee Swanson said the August 3, 2007 letter said the top of foundation is 628.54 and that number is not good. So that elevation must have been on a drawing that Mr. Cruz saw, and asked Ms. Maris' civil engineer to make adjustments to the grade and then calculate the new number for top of foundation and provide it to the architect to provide new drawings to the Community Development Department. He asked what the new top of foundation number was with the new calculations.

Mr. Najarian said the new top of foundation number became 629.0.

Trustee Swanson said that is why the 4.6" variation is needed.

Trustee Terman said the issue for her is whether or not the civil engineer and architect for the project were responsive to recalculating the grading and top of foundation with the higher elevations. She wondered if that actually happened.

President Canning asked if revised plans with new grading elevations were ever submitted.

Mr. Adler said they only received the original set of plans. With the new procedures in place the building permit would not have been issued without revised plans from the architect.

Trustee Watt said the permit would not have been issued if staff had asked for revised plans.

Trustee Terman said the fact of the matter is that the Engineering Department had specifically requested a new set of plans that were not submitted. She asked if Community Development was aware of the request from Engineering staff.

Mr. Adler said Community Development staff was reviewing the plans and had signed off by August 14, 2007. The letter sent by Engineering dated August 3, 2007 was not in the file.

Trustee Basil said he does not have a problem with granting the variation. He believes the Vista Drive case was different as there was no communication with the Village and the developer ignored the rules and there were no stamped plans allowing the case to go forward. He believes the blame should be shared with the petitioner and the Village. If the Village did not do anything wrong, why did they change their process? The process did not work the way it was intended to work and the sequence of the process has been changed. He believes an honest mistake was made by the petitioner and the Village. He asked if Ms. Maris' overall height of the new home had been changed.

Ms. Maris said the overall height of the building is under the 35' height requirement.

Trustee Basil asked about the cost incurred by Ms. Maris due to the error.

Ms. Maris said she asked staff to continue working on the new home at her own risk and expense. She has gained knowledge from the experience but it has been a stressful time.

Trustee Watt asked how tall the house was supposed to be in the original plans.

Ms. Maris said the house was not being built to the maximum of 35' as she has had problems with building to the maximum before.

Trustee Swanson said he took exception with Trustee Basil's statement that the Village changed the rules due to this case, the rules were changed due to a previous case. It is hard for him to accept the premise that "you told me what I should do but you didn't tell me a second time so therefore it is not my fault." Unfortunately, he believes the people to blame in this case are the engineer and the architect. It is a difficult case as he does not believe there was intent to do anything wrong.

Trustee Watt said she has found the discussion very helpful and will vote to grant the variation. She agrees with Trustee Swanson that the engineer and the architect should have known better. The petitioner has not gained anything from the error and the overall height of the house is below the required 35' height.

Trustee Levin said the petitioner's house is quite attractive and he does not believe the 4.5" over the first floor requirement makes a visual difference. He does not believe the petitioner is totally blameless but he will support the request.

Trustee Terman said while the professionals that the petitioner hired failed in their task, it was the petitioner's responsibility to follow the requirements in the Engineering Department's letter. She feels strongly that in spite of the fact that the home is attractive and there was no malevolent intention by the petitioner, there was a failure of oversight. She will not support the request.

Trustee Spillers said the case has been difficult and clearly there is fault on both sides. She will support the variation request but she hopes the petitioner will not be back in front of the Village Board again.

Trustee Basil said he will support the request. He believes the mistake was honest and believes everyone benefited from the experience.

President Canning said Ms. Maris has built in the community before and this is the first time there has been an issue with construction that has had to come before the Village Board. He believes a number of issues have been raised due to certain activities undertaken by the owner, architect, engineer and the Village. Ultimately, he does not see that there is an advantage to the owner or the neighborhood. He believes there has been an honest mistake and will support the request.

Voting yes: Trustees Swanson, Watt, Levin, Spillers, Basil and President Canning. Voting no: Trustee Terman. The motion carried.

- 6.192 REMOVE FROM TABLE -Zoning Board of Appeals Report, Case #2008-Z-35, 2041 Elmwood Avenue regarding a request for a special use for a parking lot not located on the same lot as the use served by the parking lot, a variation from the requirement that such facility is within 300 feet walking distance of the use being served, a variation from the requirement that off-street parking is located on a lot owned by the same party as the lot on which the use to be served is located, a 2.5' aisle width variation, a variation from the requirement that curbing be provided along the perimeter of the parking lot, and a variation from the requirement that open off-street parking be screened from any abutting lot located in a residential zoning district in accordance with the plans submitted and amended. The use shall run with the use.

Trustee Swanson moved to remove item 6.192 from the table, seconded by Trustee Basil. All voted aye, the motion carried.

Trustee Swanson noted that the request for Case #2008-Z-35, 2041 Elmwood Avenue had been moved and seconded at the June 24, 2008 meeting.

Michael Murdock, representative for Ronald Knox Montessori School, said the school is near completion for exterior and interior construction. He reviewed the request as stated in the Zoning Board of Appeals (ZBA) report noting that the request is for permission to park eight cars on the adjoining property for approximately 200 hours during the entire year. He said the ZBA gave a negative recommendation to the request but they did not have a copy of the conditions of the special use previously granted by the Village Board.

President Canning said Ordinance 2006-O-89 contained Condition 18 which reads “the petitioner shall provide off street parking for parents of students attending parent/child program.”

Trustee Swanson asked where staff for the school will park their cars.

Mr. Murdock said staff will park in the school parking lot as the site has been enlarged during construction of the new school.

Trustee Swanson asked if drop off/pick up for the children would be cued on the school’s site.

Mr. Murdock said with the new school configuration, they will have the ability to cue 14-16 cars on the school site for drop off/pick up of the children.

Trustee Swanson asked if visitor parking is available on site.

Mr. Murdock said there is not parking available for visitors on site but the school has asked its families not to park on the north side of Elmwood. The school asks their members to sign a safety contract and one of the conditions is they direct families where to park in the neighborhood.

Trustee Swanson asked if the purpose of the new construction was to have all school activities in one building.

Mr. Murdock said Ronald Knox is one of a small number of Montessori schools that is accredited. During the accreditation process two years ago, there were two issues: 1) The facility, which has been corrected with the new construction, 2) the programs were fragmented and as part of the Montessori philosophy, younger

children learn from older children in the same environment. The primary goal was to move all children to the same site.

Trustee Watt said she is puzzled by how the school will enforce the off site parking during the cold, snowy winter months when it would be easier to park closer in a parking space not designated for the mom/tot program.

Mr. Murdock said every parent will have a Ronald Knox parking sticker as that is one of the other conditions the Village Board imposed under the special use variation. The school has obtained the car stickers and will distribute to all parents when school begins. The school has put procedures in place and educated parents regarding following the rules of parking.

Trustee Watt said she believes a more workable solution would be to have the teacher's park in the adjoining lot as there would be better control over teachers regarding parking regulations.

Mr. Murdock said some of the neighbors raised concerns with the teachers parking in the adjoining lot as they would be parking the cars for a longer time frame.

Trustee Terman asked if the Ronald Knox Montessori School would be responsible for cleaning the adjoining lot.

Mr. Murdock said the school will be responsible for, as it has been in the past two years, snow plowing and cleaning.

Trustee Spillers asked if there have been any issues or police reports filed during the use of the adjoining lot in the past two years that the school has used the adjoining lot.

Mr. Murdock said there has not been any problems with the use of the adjoining lot in the past few years.

President Canning asked those in favor of the request to address the Village Board.

Monica McGregor, 2045 Greenwood, said she lives close to Ronald Knox Montessori School and they have been a great neighbor. The past year's new rules have been a definite improvement regarding parking on the street. She supports the petitioner's request.

Nancy Kulick, 1706 Elmwood, said she is the School Board President of Ronald Knox Montessori School for this year. She said having all the children together in one building is fundamentally important to the school. She asked the Board to grant the request.

President Canning noted for the record that there were twelve people in the audience in support of the request.

Lee Karas, 1026 Timber Lane, said he borders the adjoining lot to be used for parking at the school. He believes the parked cars will unduly burden his property. He has already been burdened with cars and people walking by his property during the new construction. He also believes the school will expand their use in the years to come.

Trustee Watt asked if Mr. Karas had screening between his property and the adjoining lot.

Mr. Karas said he does not have screening and feels it is better that he does not have screening as the adjoining property is quite attractive. If he had to have screening, he would prefer some type of landscaping rather than a fence.

Mr. Murdock said the previous smaller school had an enrollment of 150 children on site. The new larger school has an enrollment cap of 96 students as stated in the special use condition approved by the Village Board. He said if the neighbors would like the school to plant vegetation along the adjoining lot, the school would be happy to do that now or in the future.

Trustee Watt asked if Ronald Knox Montessori School planned to lease the parking spaces on the adjoining lot from the Sisters of Christian Charity.

Mr. Murdock said the Sisters of Christian Charity do not intend to charge the school for the leasing of the adjoining lot for parking.

Trustee Watt said she was concerned with the loss of parking in the future if the Sisters of Christian Charity changed their mind about the parking or sold the property.

Trustee Levin said the special use would cease to exist if the property could not be used, and the petitioner would have to find other off street parking accommodations or the moms/tot program would end.

Trustee Swanson said the Zoning Board of Appeals raised the issue of widening the driveway in their discussions. He would not like to see the driveway widened and/or a hard surface on the adjoining lot. It is his recollection that a condition was made by the Village Board when the special use was granted, that the Ronald Knox Montessori School provide parking for the mom/tot program, so he believes the request is in keeping with the spirit of the special use. He supports the request.

Trustee Watt said she still has concerns with young children walking from the adjoining lot to the school in bad weather. She is not convinced the request is a good solution to the problem. She would not like to see the adjoining lot widened or paved with a hard surface. She will reluctantly support the request.

Trustees Levin, Terman, Spillers and Basil agreed with Trustee Swanson's remarks.

President Canning said he believes the request is consistent with the special use condition that the school will provide parking off site for their mom/tot program. He believes the adjoining lot is a driveway and should remain a driveway so that it is not detrimental to the neighborhood.

Voting yes: Trustees Swanson, Watt, Levin, Terman, Spillers, Basil and President Canning. Voting no: none. The motion carried.

President Canning declared a recess at 9:40 p.m.

President Canning called the meeting back to order at 9:48 p.m.

6.2 FINANCE COMMITTEE REPORT:

- 6.21 Approval of Resolution #2008-R-26 approving investments as previously authorized in the Illinois Public Treasurer's Investment Pool (IPTIP) was handled with the Consent Agenda.
- 6.22 Presentation of the Annual Treasurer's Report for the year ended December 31, 2007 was handled with the Consent Agenda.

6.3 ADMINISTRATION COMMITTEE REPORT:

- 6.31 Presentation of minutes of the Business Development Advisory Group meeting held June 5, 2008 was handled with the Consent Agenda.

- 6.32 Presentation of minutes of the Housing Commission meeting held May 2, 2008 was handled with the Consent Agenda.
 - 6.33 Presentation of minutes of the Administration Committee meeting held June 2, 2008 was handled with the Consent Agenda.
 - 6.34 Adoption of Ordinance #2008-O-41 amending the Village Code, Chapter 2 regarding minimum number of meetings for Boards and Commissions was handled with the Consent Agenda.
- 6.4 MUNICIPAL SERVICES COMMITTEE REPORT:
- 6.41 Approval of contract extension in the amount of \$30,540.47 with Temple Display, Oswego, IL for holiday light decorations was handled with the Consent Agenda.
 - 6.42 Adoption of Ordinance #2008-O-45 amending the Village Code, 1993, as amended, in Chapter 9, "Housing and Building Regulations" Section 9-15, "Development Regulations in Flood Hazard Areas," Appendix 9A, "Development Regulations in Flood Hazard Areas" was handled with the Consent Agenda.
 - 6.43 Adoption of Ordinance #2008-O-40 regarding disposal of surplus Village owned property was handled with the Consent Agenda.
- 6.5 PUBLIC SAFETY COMMITTEE REPORT:
- 6.51 Rejection of bids for the Automated License Plate Readers was handled with the Consent Agenda.
 - 6.52 Adoption of Resolution #2008-R-24 authorizing the acceptance of a grant in the amount of \$9,909 from the Cook County Judicial Advisory Council for the purchase of one Global Positioning Tracking (GPS) Unit, Scene PD software and two laptop computers was handled with the Consent Agenda.
 - 6.53 Adoption of Resolution #2008-R-25 authorizing the acceptance of a grant in the amount of \$9,160 from the Cook County Judicial Advisory Council for the purchase of a microwave wireless point to point Ethernet bridge was handled with the Consent Agenda.
 - 6.54 Adoption of Ordinance #2008-O-51 regarding the disposal of one Fire Department engine and ladder truck was handled with the Consent Agenda.

- 6.55 Approval to waive the formal bidding requirements and authorize the Village Manager to purchase a used Quint at a cost not to exceed \$300,000 and to exceed the budgeted amount by not more than \$68,000 for the purchase of a used Quint was handled with the Consent Agenda.

6.6 JUDICIARY COMMITTEE REPORT:

- 6.61 Presentation of minutes of the Judiciary Committee meeting held March 18, 2008 was handled with the Consent Agenda.
- 6.62 Introduction of Ordinance #2008-O-52 amending the Village Code, Chapter 9 and Chapter 20 to exempt from the 60-day affordable housing consultation process for commercial developments with one or fewer dwelling units planned was handled with the Consent Agenda.
- 6.63 Introduction of Ordinance #2008-O-54 amending the Village Code, Chapter 11 to amend the provisions of the Class L liquor license was handled with the Consent Agenda.
- 6.64 Adoption of Ordinance #2008-O-46 amending the Village Code, Chapter 12 to repeal the prohibition of private ownership of handguns.

Trustee Basil moved adoption of Ordinance #2008-O-46 amending the Village Code, Chapter 12 to repeal the prohibition of private ownership of handguns seconded by Trustee Spillers.

Trustee Basil said this Ordinance proposes to repeal the prohibition of private ownership of handguns which has been part of the Village Code for many years. The impetus for proposed Ordinance #2008-O-46 is the recent Heller Decision by the Supreme Court which found and affirmed that there is a Constitutional right to keep and bear arms for the protection of people in their homes. It is apparent to many of the Village Board members that our current Ordinance can not withstand Constitutional scrutiny and therefore needs to be repealed.

President Canning said it is the judgment of many Village Board members and Corporation Counsel, that when the Supreme Court struck down a District of Columbia Ordinance prohibiting the private possession of operable handguns, which is quite similar to the current Village of Wilmette Ordinance, the Village's Ordinance would most likely also be struck down when met with Constitutional scrutiny. The first step of the Village of Wilmette after the Heller Decision was to suspend enforcement of the current Ordinance to allow the opportunity for Corporation Counsel and the Village Board to review the Heller Decision more

carefully. In doing so, the repeal of the prohibition of private ownership of handguns was proposed. If the proposed Ordinance is adopted, there will still be a regulatory framework that exists under the State of Illinois. It will also provide a clean slate for the existing or future Village Board to institute any discussion regarding any regulations that residents of the community may feel appropriate. President Canning said he believes the proposed Ordinance should be adopted as the current Ordinance is inconsistent with the Supreme Court Decision.

Mark Singer, 236 Valley View Drive, asked the Village Board not to act in haste, but to refer the proposed Ordinance to the Judiciary Committee to be considered in conjunction with an ordinance for other, reasonable gun regulations for the Village of Wilmette. He noted that due to the Village suspending enforcement of the current Ordinance, there will not be substantial risk exposure while the Judiciary Committee reviews the Heller Decision. Mr. Singer said the Legal Community Against Violence (LCAV) has agreed to work with the Village to draft a new, reasonable gun ordinance to be ready by the end of August. He urged the Village Board to take advantage of LCAV's free legal expertise in this area for a well written Ordinance that will stand up in a court of law for years to come.

Trustee Basil said, as chair of the Judiciary Committee and having spoken with Corporation Counsel, he believes the two concepts do not need to be linked. The repeal of an unconstitutional handgun ordinance is not linked in time or process with the consideration and enactment of new additional regulations. He did not believe the Village Board should expose itself to litigation that he believes is certain as litigation has happened to every other Village/City that has a handgun ordinance. There is a significant financial risk to the Village of Wilmette in not repealing the current Ordinance.

President Canning said the Judiciary Committee may review proposed regulations from the LCAV but the Village Board analysis of the current ordinance is that it would not withstand constitutional scrutiny and should be repealed.

Mr. Singer said the Village Board is assuming that the Heller Decision applies to the States but there are cases pending that will decide that question. There is no possibility that anyone is going to be prosecuted under the Village of Wilmette's current Ordinance. The Village Board is assuming the result of other litigation that is pending. He does not believe there is a need for unseemly haste.

Trustee Levin said as he reads the Supreme Court Decision, the Second Amendment will apply to the States and not just the District of Columbia.

Trustee Basil said the risk of keeping the current Ordinance after a lawsuit is filed can result in a civil rights claim where the plaintiff, if successful would be able to recover their attorney fees for filing and succeeding in a lawsuit. He believes there is a significant financial risk to the Village in keeping the current Ordinance in the Village Code.

Amy Rogers, 230 Hibbard Road, said she has concerns that her 16 year old son, could be in the presence of a handgun if the Ordinance is repealed. Until now, she has had the luxury of not worrying about such a thing. She believes that to repeal the current ordinance regarding gun regulations without the appropriate protections in place for our children is not a good decision. She asked that the proposed Ordinance be tabled and delayed due to the lateness of the evening hour for more discussion and special hearings to allow residents to express all points of view.

Jean Bishop said she is the head of the North Shore Chapter of the Million Mom March that is dedicated to sensible gun laws and safe kids. She is an attorney and someone who suffered a gun tragedy in her family. Her younger sister, Nancy Bishop Langer and her husband Richard were shot to death with an illegally owned handgun that was left lying in a drawer. A New Trier teenager took the gun and shot her family members to death in their own home in 1990. She believes that children and handguns are a very bad combination. She has read the Heller Decision very carefully and does not believe the law that applies to the Village is the Heller Decision as the Second Amendment has never been incorporated to Municipalities. She believes there is time to wait for the LVAC's model Ordinance regarding gun regulations and asked the Village Board to be responsible and thoughtful and put into place regulations regarding handguns to keep children safe.

Joel Sigel, Wilmette resident, said he has contacted attorneys through the National Rifle Association and Illinois State Rifle Association and they are fully willing to file a lawsuit immediately if the current Ordinance is not repealed. He supports the repeal of the current handgun Ordinance as there are many laws that currently deal with the illegal use of firearms. He said he instructs young people in the safe and correct use of a gun which is their constitutional right. He does not believe future regulation should be considered as firearms are not a concern in this community. He believes gun education is the proper answer, not regulation.

Georgia Gebhardt, 411 3rd Street, said she is a representative for the League of Women Voters and has the following statement from the League of Women Voters regarding the proposed Ordinance:

“The League of Women Voters of the United States believes that the proliferation of handguns and semi-automatic assault weapons is a major health and safety threat to its citizens. They support regulating firearms for the public safety and urge all levels of government to implement strong measures to limit the accessibility and regulate the ownership of these weapons by private citizens. The US League supports licensing procedures for gun ownership by private citizens which include a waiting period for background check, personal identity verification, gun safety education, and annual license renewal. The license fee should be adequate to bear the cost of education and verification. The League of Women Voters of Wilmette strongly urges the Village Board of Trustees to do all it can lawfully to protect the health and safety of its citizens through regulation of firearms. By doing so, this governmental body will be complying with the spirit of the community’s long standing support for a gun ban, while at the same time honoring the recent Supreme Court Decision in the District of Columbia versus Heller.”

Trustee Basil said the Village Board has heard and will consider the remarks of residents carefully. He commended Corporation Counsel Tim Frenzer for taking the action to suspend enforcement as a very prudent risk management act. It is clearly the case that the Village has avoided being named in a lawsuit due to Mr. Frenzer’s action. While he has heard assurances this evening that the Village does not need to act in haste, he has not heard insurance for the financial risk of being found to be in violation of the Heller Decision. He understands the legitimate concerns of residents and those concerns can be addressed but it is important from a risk management perspective to avoid unnecessary litigation and exposure for the Village. He is in favor of repealing the Ordinance.

Trustee Spillers said that before this evening, she does not recall any Village resident discussing the handgun ordinance with her. The Village Board can now have a dialogue on the issue. She commended Corporation Counsel in providing the Board with his interpretation of the Heller Decision. She does believe there is a financial risk in keeping the current Ordinance in the Village Code, so she is in favor of the proposed Ordinance to repeal the current handgun ordinance.

Trustee Terman said she would also like to thank Corporation Counsel Tim Frenzer as he has elucidated the issues beautifully and has made her aware of the opportunities that lie ahead and also the current risk. It would seem inevitable to her from all that she has read, that the Village would be at risk of litigation and she believes it is prudent to avoid that. She also believes the suggestions that both President Canning and Trustee Basil have made regarding the severability of these considerations are very important. While the Village Board may take an action that is very prudent in repealing the current Ordinance, at the same time

she would like a commitment that the Village Board will open the dialogue among members of the community and that the residents will educate themselves and understand the risks and opportunities of such a discussion. She believes the Village needs to have conversations with experts on gun control due to the tragedies of the community as the reality of gun possession in our community is very real. She would never trust a specific ordinance to protect her from the danger of handguns. She believes the nation has to go further in changing the culture that allows people to feel that they may use handguns for whatever reason. She will support the proposed Ordinance at this time but also wants to be sure that the Village Board will have a forum to learn, discuss and perpetuate a point of view within the community that was reflected in the 1989 handgun Ordinance.

Trustee Levin said he also believes it is legally and fiscally responsible to repeal the current Ordinance. He said there are no longer any experts on gun control, the Supreme Court Decision has basically rewritten the landscape on what a Village can do. He read the following excerpt from the majority opinion of the Supreme Court Decision: "Justice Breyer chides us for leaving so many applications of the right to keep and bear arms in doubt and for not providing extensive historical justification for these regulations of the right that we describe as permissible which are the lists of what Justice Scalia said we can do. But, since this case represents this court's first in depth examination of the Second Amendment, one should not expect it to clarify the entire field any more than Reynolds versus the United States. Our first in depth free exercise clause case, left that area in a state of utter certainty and there will be time enough to expound upon the historical justifications for the exceptions we have mentioned, if and when those exceptions come before us." Trustee Levin noted the Reynolds case took place in 1879 and the issue of the free exercise clause is still being litigated. The Village Board can discuss handgun regulations but the law is now in a state of gross uncertainty. Until there are Supreme Court cases that set ground rules for gun regulation, the Village Board will be defending legislation at the taxpayers expense.

Trustee Watt thanked Corporation Counsel Tim Frenzer for laying out all the intricacies of the issue in terms that she could understand. The issue is very difficult and her heart is not in a repeal of the current Ordinance, however she sees nothing to be gained by not repealing the Ordinance. Given the Village has suspended enforcing the current Ordinance, she believes it is a moot point. As someone who has a fiduciary responsibility to the community, she has to take very seriously Mr. Frenzer's recommendation that the current Ordinance be repealed. Notwithstanding what Trustee Levin has said, she believes it is incumbent upon all of the Village Board to look at the issue and have a very serious discussion as a community. Her heart went out to Ms. Bishop regarding how violence has affected her family and thanked Ms. Gebhardt for the opinion of

the League of Women Voters. She hoped the Judiciary Committee would start a serious community dialogue. As a parent and a resident, she feels less safe than she did before.

Trustee Swanson said he believes the Village does not have much choice in repealing the current Ordinance. He relied upon Corporation Counsel Tim Frenzer's advice and since there is an Ordinance that is not being enforced and can not be enforced, he would rather not spend time and money on an Ordinance that has Constitutional flaws. He would prefer to clean the slate and discuss more acceptable gun regulations. At this time he supports the repeal of the current Ordinance.

President Canning said he does not believe there has been a rush to repeal the current Ordinance. Once the Supreme Court Decision had been announced, the Village Board received its first email from a resident within one hour asking what the implication to the Village's Ordinance would be. In that same hour, Mr. Frenzer had started to read the 150 page Supreme Court Decision. Mr. Frenzer is not only the Village's Corporation Counsel but also works with the Northwest Municipal Conference, the LVAC and also defended the Hale Demar Case. He went to Springfield to lobby the members of the General Assembly to defend the Village of Wilmette's Ordinance from the changes they made to the self defense exception. Being trained as a lawyer, and after reading the initial Decision, he could see that the Village's current Ordinance is inconsistent with the Supreme Court Decision. In speaking with Mr. Frenzer, it was suggested to suspend enforcement of the current Ordinance, which he thought was a prudent course of action. He is very appreciative of the quick and thorough research that was provided by Mr. Frenzer to the Village Board. He said unlike the thought that there is no regulatory environment once the Village's current Ordinance is repealed, in fact the State of Illinois does create a regulatory environment and does address some of the comments raised by Justice Scalia's opinion. Former Trustee Ryan asked him to review the current Ordinance to see if the one paragraph regarding possession could be eliminated and we could keep the remainder of the Ordinance. He did review the request but it simply can not be done as once you eliminate the paragraph on possession, all other paragraphs are dependent on that one paragraph and therefore fall because they serve no purpose. He can not see any way to amend the Ordinance, the only thing that can be done because the Ordinance is inconsistent with the Court's ruling, is to repeal the Ordinance and engage in a community wide discussion regarding regulation. As Trustee Levin pointed out, there are no more experts on gun control and Trustee Levin should know as for the last 37 years Trustee Levin has been an expert on the Second Amendment. The bottom line for him is that the current Ordinance needs to be repealed because it can not stand, it is against the Constitution of the

United States, and it is against the rights that are set forth in the Second Amendment. He agrees that the Supreme Court Decision is not binding on Wilmette today but believes the prudent course of action is to repeal the Ordinance at this time and engage in community wide discussion to determine what if any regulations or anything else may be appropriate for the community.

Voting yes: Trustees Swanson, Watt, Levin, Terman, Spillers, Basil and President Canning. Voting no: none. The motion carried.

7.0 REPORTS FROM SPECIAL COMMITTEES:

No Reports.

8.0 UNFINISHED BUSINESS:

- 8.1 Notice of vacancy on the Community Relations Commission due to the term expiration of Alice Chow was handled with the Consent Agenda.
- 8.2 Notice of vacancy on the Community Relations Commission due to the term expiration of Harry Rhodes was handled with the Consent Agenda.
- 8.3 Notice of vacancy on the Board of Health due to the term expiration of Malcolm Hast was handled with the Consent Agenda.
- 8.4 Notice of vacancy on the Plan Commission due to the term expiration of Vince McBrien was handled with the Consent Agenda.
- 8.5 Notice of vacancy on the Housing Commission due to the term expiration of Marilyn Schaffer was handled with the Consent Agenda.
- 8.6 Notice of vacancy on the Youth Commission due to the term expiration of Joe Feldman was handled with the Consent Agenda.
- 8.7 Notice of vacancy on the Youth Commission due to the term expiration of Eve Williams was handled with the Consent Agenda.
- 8.8 Notice of vacancy on the Youth Commission due to the resignation of Alison Field was handled with the Consent Agenda.
- 8.9 Notice of vacancy on the Youth Commission due to the resignation of Rita Strang was handled with the Consent Agenda.

- 8.91 Notice of vacancy on the Community Relations Commission due to the term expiration of Shahid Siddiqui was handled with the Consent Agenda.
 - 8.92 Notice of vacancy on the Youth Commission due to the term expiration of Craig Crawford was handled with the Consent Agenda.
 - 8.93 Notice of vacancy on the Board of Health due to the term expiration of Diana Hackbarth was handled with the Consent Agenda.
 - 8.94 Notice of vacancy on the Youth Commission due to the term expiration of Melissa Miller was handled with the Consent Agenda.
 - 8.95 Appointment of John Andersen to the Environmental and Energy Commission from August 2008 to August 2011 was handled with the Consent Agenda.
- 9.0 NEW BUSINESS:
- No Report.
- 10.0 ADJOURNMENT:
- Trustee Terman moved to adjourn the meeting at 10:38 p.m., seconded by Trustee Levin. All voted aye, the motion carried.

Barbara L. Hirsch
Deputy Village Clerk