



Village of Caseyville

909 South Main Street
Caseyville, Illinois 62232

Phone: 618-344-1234
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REGULAR BOARD MEETING MINUTES

December 17, 2014

LEN BLACK
Mayor

ROB WATT
Village Clerk

WALTER ABERNATHY
Trustee

RICK CASEY, JR.
Trustee

KERRY DAVIS
Trustee

G.W. SCOTT, SR.
Trustee

RON TAMBURELLO
Trustee

BRENDA WILLIAMS
Trustee

BRIAN RADER
Supt. of Public Works

Call to Order:

The regular meeting of the Village of Caseyville was called to order at 7:00 P.M. by Mayor Leonard Black. The meeting was held on Wednesday, December 17, 2014 in the Council Chambers at 909 South Main, Caseyville, IL 62232.

The meeting opened with the Pledge of Allegiance and silent prayer.

Roll Call:

Trustees present: Kerry Davis, Wally Abernathy, Ron Tamburello, Brenda Williams, G.W. Scott, Rick Casey, Jr.

Trustees Absent: None

Others Present: Mayor Leonard Black, Superintendent of Public Works, Brian Rader, Police Chief Frank Moore, Village Attorney Brian Manion and Clerk Rob Watt.

Minutes

A motion was made by Rick Casey, Jr., seconded by Wally Abernathy, to approve the minutes of the Regular, Special and Closed Session Meeting held on November 17, 2014, November 19, 2014, November 24, 2014, and December 10, 2014.

Voting on Motion: all yeas, no nays - **Motion Passed**

Old Business:

➤ There was none for this meeting.

Voting on Motion: all yeas, no nays - **Motion Passed**

Citizen's Input:

➤ John Wilson came to the Board and asked if there was going to be Citizen's Input for the presentation by Attorney Jay Dowling listed later on the Agenda or does the Board want the Citizen's Input now on that? Mayor Black did not plan on anyone speaking after his presentation but instead speak now if they wanted to. He states that if there is a problem with that then address it now. John Wilson states that he has a problem with them because he has had numerous meetings with the Village and the Planning Commission on the Zoning Amendment. He states that he has two bites at the apple so why does he have to put on a presentation tonight. He continues by saying that it was presented to the Planning Commission a couple of weeks ago. He states that he has their minutes/memo to the Board what they requested the Board do with this. So why are they here with attorneys to present a case to the Board that has been presented over and over again. Mr. Wilson asks if Attorney Brian Manion can answer that if it correct for him to keep coming back. Attorney Manion states that it's a Public Meeting and they have a right to speak just like any other Citizen here. Mr. Wilson asks that he has the right tom present his case and Attorney Manion states that the Mayor has the right to allow ample time for anyone to make public comments. Mr. Wilson states that he will hold his other remarks until the presentation is made. Mayor Black states that he did not expect to allow more comments after the presentation. He thought that after the presentation the Board would vote on what to do. Mr. Wilson asks that Mr. Dowling will get the last word in front of the Board before they vote? Mayor Black states that technically that would be right. Mayor Black asks the Board if they would have a problem with allowing the audience to speak after Mr. Dowling makes his presentation.

Rick Casey, Jr., with the assistance of Attorney Brian Manion, makes a motion, seconded by Brenda Williams, to amend the agenda to allow public comments on the item where Mr. Dowling makes his presentation under Planning and Zoning.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

Mayor Black read a letter concerning the Police Department to include congratulating Sergeant Nick Arnold for his recent Promotion. The letter went in-depth on the career and life of Sergeant Frank Moore.

Mayor Black swore in Frank Moore to be the new Chief of Police for the Caseyville Police Department. Chief Frank Moore speaks and thanks the Board and those in attendance.

New Business:

- Motion was made by Rick Casey, Jr., seconded by Ron Tamburello, to approve the appointment of Lola Cline as Village Treasurer.

No Questions on the motion

Voting on the motion: G.W. Scott - **Nay**, Rick Casey, Jr. - **Yea**, Wally Abernathy - **Nay**, Ron Tamburello - **Yea**, Brenda Williams - **Nay**, Kerry Davis - **Nay**

4 Nays - 2 Yeas – Motion did not pass.

Mayor Black appointed Ms. Lola Cline to be Interim Treasurer until they can reach another agreement.

- Mayor Black brought up the discussion to allot money to the French Village Fire Department and turned it over to Brenda Williams. Brenda Williams states that she did not put the item on the agenda and thought that discussions were for Committee Meetings. Attorney Brian Manion states that you can discuss it but it is up to the Board and that nothing prohibits discussing it here versus the Committee Meeting. Mayor Black asks the Board how they feel about allotting funds to the French Village Fire Department. Brenda Williams asked if we could table the discussion until it runs through Committee so that the entire Board can come to an agreement and then maybe get it done next month.
- Motion was made by Brenda Williams, seconded by Rick Casey, Jr., to table the discussion on allotting TIF Funds to the French Village Fire Department until the Boards next Committee Meeting.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by G.W. Scott, seconded by Rick Casey, Jr., to table the discussion on the Community Center Ordinance.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by Rick Casey, Jr., seconded by Brenda Williams, to approve \$15,000 for the Caseyville 4th of July Celebration Fireworks Contingent on the approval of the Hotel/Motel Committee.

Mayor Black explained to the Board that we need to get this approved in order to save a date on the calendar with the Fireworks company. Wally Abernathy asked how much we paid, in total to include vendors, this year. Mayor Black and Rick Casey, Jr., stated that we did not pay for the vendors because they came in on their own. Mayor Black states that we spent around \$1500.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

Administrative/Communications & Technology:

- Motion was made by Brenda Williams, seconded by Kerry Davis, to approve Resolution #1449 – A Resolution Providing the Date, Time, and Place of Caseyville Board of Trustees Regular Meetings and Committee Meetings for the Year 2015.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by Brenda Williams, seconded by Rick Casey, Jr., to approve Resolution #1450 – A Resolution Providing the Date, Time, and Place of the Police and Fire Commissioner Board Meetings for the Year 2015.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

Finance/TIF/Grants/Insurance:

- Motion was made by Brenda Williams, seconded by Wally Abernathy, to approve Resolution #1451 -- Resolution to approve the project portion of the Patel TIF Agreement.

Brenda Williams states that she is missing a piece of the agreement. What she wants to do is approve the project portion of the agreement and then come back and amend this resolution to include the redevelopment agreement.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

Police:

- Motion was made by Ron Tamburello, seconded by Rick Casey, Jr., to approve the appointment of Officer Nick Arnold to the permanent position of Sergeant.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by Ron Tamburello, seconded by Rick Casey, Jr., for the approval to authorize the Police & Fire Board to hire 1 Full-time Police Officer pending Psychological, Medical, Polygraph and Background Checks.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by Ron Tamburello, seconded by Brenda Williams, for the approval to take an equal share from the DEA and DUI funds to pay the \$19,551 for the fingerprinting equipment.

Brenda Williams mentions that the issue came up if we could use Hotel/Motel or TIF Funds to pay for this and it was decided you can't. Ron Tamburello asked if we had enough funds in the DEA and DUI funds to cover this and was told by Brenda Williams that we should have enough. Chief Moore stated that we have enough funds in either fund to cover this expense.

No further questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by Ron Tamburello, seconded by Rick Casey, Jr., for the approval to purchase a new Breathalyzer for the Caseyville Police Department for \$6,875 and payment be made out of the DUI Fund.

Ron Tamburello informed the Board that the breathalyzer the Caseyville Police Department was inspected by the State and it was determined that it needed to be replaced.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

Public Works/Building:

- Motion was made by G.W. Scott, seconded by Brenda Williams, to approve the Collinsville Middle School Band to host a Trivia Night at the Caseyville Community Center on January 24th, 2015 for \$250.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by G.W. Scott, seconded by Brenda Williams, to approve the Collinsville Lady Kahoks to host a Trivia Night at the Caseyville Community Center on January 31st, 2015 for \$250.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

- Motion was made by G.W. Scott, seconded by Wally Abernathy, to approve Resolution #1452 – Resolution Accepting the Bid Proposal for the Caseyville Residential Streets Pavement Project.

No questions on the motion

Voting on Motion: all yeas, no nays - **Motion Passed**

Planning/Zoning:

- Attorney Jay Dowling begins his presentation by stating that the Board should reject the recommendation from the Planning Commission and should, in fact, rezone and approve the application that has been submitted by the petitioner in this matter. Mr. Dowling gives a brief history on the project from 2012 to today. He gave a list of the different times this has been submitted. He lets the Board know that the applicant has submitted an amendment to their third application asking that the north 40 acres of what has been zoned B-2 to be rezoned to multi-family. He states that the north 40 acres is already zoned SR-1 and that is the only part of the overall project of the 80 acres that is relevant for this determination here. He states that the purpose of the rezoning is to meet current economic climate demands. He states that the multi-family is not HUD-subsidized. He states that the petitioner is looking at putting in 2-bedroom units according to market studies and economic analysis at about \$850 per month and 3-bedroom units at a \$1050 per month. He states that the Village is looking at a 240 unit development with a 75-25 split between the 2-bedroom and 3-bedroom housing. Mr. Dowling goes over the way that developments are constructed. Mr. Dowling goes over the obstacles that came up when it went through the process of going through the Planning Commission and the hearing in October 2014 and another in December 2014. He states what was interesting from the October Hearing with the Planning Commission some questions were raised and the developer answered some of those question and then stated they needed to find the information that they wanted for the rest of the answers. He states that the issue was tabled until December. He states that here is where the problem may lie, in December at the hearing there were only 4 people present of an 8 commission panel. He states that does not constitute a quorum, yet they still took action. He states that is interesting enough, there is a requirement under the Village Code for a quorum is present when you are in front of the Zoning Board of Appeals but it doesn't address what constitutes a quorum in front of the Planning Commission. He states, however, that just means that you revert back to the Municipal Code which means that you still have to have a quorum and you have to have 5 people to be able to transact any business. Mr. Dowling states that there is a problem with the way and manner in which the second hearing was presented. He states what is interesting about that there was, again, questions were posed by the Planning Commission and instead of them allowing the developer to answer those questions, this simply summarily said that they just find it doesn't work. He states that the Planning Commission said it wouldn't work as multi-family on the basis of no evidence whatsoever, which, Mr. Dowling states, is another problem. Mr. Dowling goes into the issue about how the

hearing was conducted, identified the different property boundaries that are not in Caseyville, the agreement on the redevelopment agreement identifying \$4.1 Million coming to the Village over the lifetime of that agreement that it would not see if the Zoning is not amended to multi-family. Mr. Dowling goes over the additional funds that the Village would receive due to this rezoning. He states that the Caseyville Water department, based on tap-on revenue and the development, would see an additional \$50,000 on an annual basis. Mr. Dowling states that with this amended redevelopment agreement, the Village would not have to raise the property taxes by 17.5% because the revenue generated would allow them to pay up on the deficient pension funds. Mr. Dowling goes over the process from the Zoning Administrator to the Planning Commission and then the Advisory Report from the Zoning Administrator. Mr. Dowling then moves to discussing the items that were on the Advisory Report and gives his response to those items. Mr. Dowling states that the decision that the Board makes tonight has to be consistent in the way it treats all of the developments, developers and their requests. Mr. Dowling states that one of the issues that will come up is whether or not the procedural context of this case was arbitrary or capricious. Mr. Dowling goes over the procedures and identifies the errors that were made during the process. Mr. Dowling states that they are not asking for the process to be redone but states that the way it was done was problematic. Mr. Dowling goes informs the Board that the two residents that are adjoined to the property in question, one was for the project the other was against. He states that this is a project that the Village of Caseyville needs and something that will be good for the Village. He continues by stating that it will give it a financial basis that will benefit all of its citizens. He states that this is good stewardship for the Village. Mr. Dowling ends his presentation by stating that he recommends the Board reject the Planning Commission's recommendation and approves the request of the applicant to rezone the property in question from SR-1 to multi-family. Rick Casey, Jr., wants a specification from Attorney Brian Manion concerning the issue of there not being a quorum at the Planning Commission Hearing. Attorney Manion states that at the time of the hearing he was told there were only 7-members on the Planning Commission but has since found that there are actually 9. He raises the question if a vacant seat is counted for a quorum and has not had the opportunity to research that question. Mr. Dowling tries to offer an answer but is told by Rick Casey, Jr., that he is waiting to hear his question answered by Mr. Manion. Mr. Manion states that the Zoning Board is not part of the process but if there is an issue on whether or not there was a quorum, he would recommend the Board of Trustees refer this matter back to the Planning Commission to conduct a new hearing where you do have a quorum. Rick Casey, Jr states that if there was not

technically a quorum how you can vote on this. Mr. Manion states that then the meeting is a nullity for which Rick Casey, Jr., states that we cannot approve or reject the hearing that is in front of us. Mr. Manion states that you cannot rezone a property without a valid Planning Commission meeting to make a recommendation. He also states that to do this legally, we would have to refer it back to the Planning Commission. Kerry Davis asked to know how many members are actually seated on the Planning Commission. Rick Casey, Jr., states that we have 8 and Brenda Williams corrects that to 7. Wally Abernathy states that we had other things come up before that Planning Commission that we voted with them in the past. Rick Casey, Jr., restates the fact of that meeting not being a quorum and the Board not being able to reject or approve based on that fact. Wally Abernathy states that what we have done in the past is illegal too and they shouldn't have voted on those too. Rick Casey, Jr., states no, because if they had a quorum then it was fine. He states that is why he asked Attorney Brian Manion if that meeting constitutes a legal meeting and if it is not, then the Board cannot vote on their recommendation was at that time. He states that the Planning Commission meeting was null and void. He states that previous meetings they had quorums and the Board voted on it. Attorney Brian Manion asks Mr. Dowling if he has seen any case law on if a vacancy counts or doesn't count. Mr. Dowling tries to clear up the confusion by stating that the Village's Planning Commission has 9 Seats no matter what anyone shouts out. He goes over the fact that, by ordinance, our Zoning Board of Appeals has 7 members and that ordinance states what constitutes a quorum. Mr. Dowling then informs the Board that there are 9 members of the Planning Commission and identifies that at the last hearing on December 2nd, there were 8 members identified and the Board had identified one vacancy. He continues that of the 8 members identified, there were four that were present and four that were absent so there is no quorum. He states that even if you had an 8-seat Commission you would still need. Attorney Brian Manion agrees and states that the Board needs to refer it back to the Planning Commission. Mr. Dowling states that in a memo dated December 11th, 2014 they made no announcements or findings of fact at the hearing, they met on December 10th, 2014, which was 8 days after the hearing. He states that the memo does not reflect who was present during that meeting, who voted or did not vote, and then they made these recommendations which could constitute a violation of the Open Meetings Act. He said that he doesn't know that for sure but is only pointing out a possible problem. Rick Casey, Jr., states that either way, the Board needs to table it and it has to go back to the Planning Commission. Attorney Brian Manion stated that a motion needed to be made to reflect that.

- Motion was made by Wally Abernathy, seconded by Ron Tamburello, to refer Resolution #1453 - Resolution of the Village Board Regarding the Acceptance/Rejection of a Recommendation of the Planning Commission to Deny Rezoning of TBHP, LLC Property from SR-1 and B-2 to MR back to the Caseyville Planning Commission for a new Planning Commission Meeting.

No questions on the motion.

Voting on Motion: all yeas, no nays - Motion Passed

John Wilson wanted to know that if they have a new hearing will they have to go on the information that was provided and not add any new stuff. Mayor Black states yes and Ron Tamburello asks who chairs that Committee. He is told Matt Modrovsky is the Chairman. Mr. Wilson provides rebuttal to information that Mr. Dowling provided during his presentation. Mr. Dowling clarifies some items in Mr. Wilson's rebuttal and states that he has the right to put in any evidence, new or otherwise, that he wants for the next hearing. He states that he is not stuck with the evidence that has been submitted. A comment was made that addresses were not sent the mailings to attend the meeting. Clerk Rob Watt states that he will collect names and pass them on to Mr. Hill. Matt Modrovsky asks if there is a comprehensive plan. He states that is one of the fact-finding questions that they will be challenged on. He goes over what the Comprehensive Plan will state if this type of development fits the plan. He is told that we should have a copy of the plan in the Zoning Office. Matt Modrovsky asks if there was any approval from IDOT to put the entrances in. He asks if the Board has seen or received anything concerning that. He is given an answer but states that the gentleman that is referenced never heard of the project. Various residents and non-residents provide rebuttal to Mr. Dowling's presentation but he was not there to answer.

- Motion was made by Brenda Williams, seconded by Kerry Davis, to approve Resolution #1454 – Resolution of the Village Board consenting to filing of Forest Lakes Final Plats.

No questions on the motion.

Voting on Motion: all yeas, no nays - Motion Passed

Committee Reports:

- **Public Works/Building** – Chairman G.W. Scott stated that he will work on the Community Center Ordinance item and have a copy to the Board by the next Committee Meeting

- **Finance/TIF/Grant/Insurance** – Chairman Brenda Williams states that she should have a draft copy of the Audit for the Board soon and will call a Finance Meeting to discuss the Audit findings.

Correspondence: Village Clerk Rob Watt did not have any correspondence for this meeting.

Approval of Bills:

- A motion was made by Brenda Williams, seconded by Wally Abernathy, to authorize the expenditures of the bills and the money drawn from the proper accounts, as funds are available.

No questions on the motion.

Voting on Motion: all yeas, no nays - **Motion Passed**

Mayor Black lets the audience know that they are welcome to join Chief Frank Moore and family in the Community Center for refreshments.

- A motion was made by Rick Casey, Jr., seconded by Ron Tamburello at 8:14pm, to go into closed session for:

To discuss litigation pursuant to 5 ILCS 120/2(c)(11) (Alvarez).

No questions on the motion.

Voting on the motion: All yeas and no nays - **Motion passed**

A motion was made by Rick Casey, Jr., seconded by Ron Tamburello, to come out of closed session at 8:20pm.

No questions on the motion.

Voting on the motion: All yeas and no nays - **Motion passed**

A motion was made by Rick Casey, Jr., seconded by Kerry Davis, to reconvene the meeting at 8:21pm.

No questions on the motion.

Voting on the motion: All yeas and no nays - **Motion passed**

Adjournment

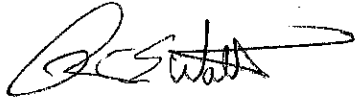
There was no additional business to bring before the Board. A motion was made by Rick Casey, Jr., seconded by Ron Tamburello, to adjourn the meeting.

No questions on the motion.

Voting on the motion: All yeas and no nays - **Motion passed.**

Meeting adjourned at 8:22 p.m.

Respectfully Submitted by



Rob Watt
Village Clerk