

**MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES,  
THE VILLAGE OF McCULLOM LAKE,  
4811 W. ORCHARD DRIVE  
McCULLOM LAKE, IL 60050  
August 27, 2024  
All Village Board meetings will be tape recorded.**

President Shepit called the meeting to order at 7:00 P.M.

**Pledge of Allegiance**

**Roll Call:** By Village Clerk Messina

**Present:** President Shepit, Trustees Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky, Attorney Shaw

**Minutes:** Trustee Bogacz made a motion to approve the minutes; seconded by Trustee Walter. Voice vote: Bogacz, Fritz, Vick, Walter, Zakrocky=ayes. Trustee Thompson=Abstained. Motion carried.

**Treasurers Report:** Trustee Vick made a motion to approve the Treasurers Report; seconded by Trustee Zakrocky. Voice vote: Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky=ayes. All in favor, motion carried.

**Bills Read and Approved:** Trustee Bogacz made a motion to pay the bills; seconded by Trustee Vick. Voice vote: Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky=ayes. All in favor, motion carried.

**Finance:** N/A

**Building & Zoning:** N/A

**Parks:** Trustee Thompson: Playground timbers are all destroyed. Deputy Clerk Prehn stated that the timbers needed are included in the grant. Trustee Thompson: We have a quote for the removal of five (5) silver maple trees and stumps for \$9000. This will be added to the next meeting's agenda.

**Roads:** Trustee Vick: Road Patching Program that we've talked about previously around \$18,000. Clerk Prehn: We brought in around \$21,000 for vehicle stickers and gaming fees. Trustee Vick: So that's what we're going to do in patching from Spring up Maple Hill to Forest View is really bad. He will get with a couple of people and get some pricing on patching and mark out the bad areas and do as much as we can with the \$18,000. If we can get more done that would be great, if we can't at least it's a first step and do this as a yearly thing. Clerk Messina: To have this program in place is just great. Trustee Vick: We are never going to catch up if we don't start doing something now, granted we do the bad areas here and there but we haven't heard about the grant but we will have that money available and it was originally allocated for Orchard and Spring from Orchard to Flanders and if they allow us to we can switch the money and do Spring and I think there is plenty of money to cover that, he's not sure but he will get with Jeremy from HR Green or Jeff and once he hears he'll let everybody know. We're waiting to hear from the McHenry County board if they've approved it.

**Blight:** Trustee Walter: The dumpsters at the apartment buildings they are close to the edge of the road at Orchard. Hickory and McCullom Lake Road the dumpster is pretty bad with branches and everything else laying around.

**Police:** Trustee Zakrocky: Received a detailed report from the Police Department from July 23rd to August 26<sup>th</sup> that he read out loud. He will be receiving this report on a monthly basis.

**Communications:** President Shepit: Letter received from McHenry County Conservation District where McHenry County resident will have the opportunity to vote on a ballot proposition that will impact our ability to protect Water Quality, preserve Wildlife Habitat and improve Outdoor Recreation Access for all.

**Audience:**

**Old Business:** N/A

Trustee Bogacz made a motion to adjourn out of the Regular Board meeting for a Public Hearing at 7:14 P.M.; seconded by Trustee Fritz. Voice Vote: Bogacz, Fritz, Thompson, Vick, Walter=ayes. All in favor, motion carried.

Roll Call by Village Clerk Messina at 7:15 P.M.: President Shepit, Trustees Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky, Attorney Shaw. Attorney Shaw the purpose of the Public Hearing pursuant to statute is to consider the vacation of a portion of a platted right of way within the Village. The Village has been the owner of the streets and therefore the right of ways that have been platted since the Village starting maintaining, you guys have seen

the original plat, the original plat layout private streets and roadways within the Village. The second the Village was incorporated and started maintaining the roadways all of those platted streets and right of ways became accepted by the Village. So as it turns out there are several right of ways that exist in the Village that are not actually roadways and all these right of ways are unused parcels at this point in time. Several months ago there was an issue that came up because a house that sits on one of these platted right of ways and has been using that plat of right of ways for an extended parking area came on the market and I think there was a thought that the Village was going to attempt a sort of intervene in the continuation of the parking on that lot. There were signs that were erected and that obviously got the attention of the home owners and they contacted the Village first and then they contacted me. Now the Village having control of the right of ways we have some options with what we can do with that. It is Village property, it's public land however it's not being used currently, it hasn't been used since the Village was a Village and my suggestion at that point in time was well we have the option to vacate it and sell off as much of that property as the neighbor who's parking on it needs to have available parking maybe room to put a garage back behind the house and expand on to that twenty-two (22) feet is what it turns out to be. So pursuant to statute we've posted a notice in the paper the certificate of publication has been made part of the record. It's been published at least fifteen (15) days prior to today and it does require a Public Hearing for anyone to appear and be heard and above and beyond that it requires a seventy-five (75) percent approval of the board of Trustees. So what that means is that it takes six (6) votes to get it done. I know there is going to be some disagreement with that and that's all well and good this board doesn't have to agree on everything but from a legal perspective... by the way the owner of the house just so everyone is clear is Randall Taradash. Mr. Taradash happens to be an attorney. Mr. Taradash and I do not know each other. We've never spoken before this issue came up so I just want that made part of the record. So we began our conversations and I asked if he would be interested if the Village would be willing to vacate if he would be willing to purchase that property and he said absolutely I would be willing to purchase that property, what's the price? We started just talking internally and it was raised that somebody had seen a sale somewhere in the neighborhood of ten thousand dollars (\$10,000) for a lot in the Village. Trustee Vick: That was me. Attorney Shaw: Was that you? Trustee Vick: That was the lot I bought. Attorney Shaw: O.k. so that's what we kind of used to gauge what a buildable lot costs. This is twenty-two (22) feet out of a sixty (60) foot right of ways. My suggestion you see is most of the time when Village's vacate right of ways... if this is the right of ways what they do is say we're going to vacate this right of way, we're going to split it down the middle and each half goes to the adjoining owner on either side of it. That's a standard way to do it, however the statute allows Village's and Municipalities in general to vacate it and apportion it in any way that they deem appropriate. It's spelled out in the statute. So my

suggestion was o.k. well what if we only vacate as much as he thinks he needs for parking and the Village can then think about turning the balance of the lot into a park or a pulmonary garden or a community garden, whatever. Trustee Vick: So if I lived there and I'm just asking a random question, and I lived next to a lot like that, that was part of the right of way I could ask the Village to vacate it if I wanted to build a garage next to my house, if they agreed to it I paid for it and I get my thirty (30) feet, same thing correct? Attorney Shaw: Same thing. So the way it actually works is once you vacate it, there were some questions about why we would be willing to do this, why are we accepting the payment. The number we came up with was \$3300.00 dollars. For twenty-two (22) feet of sixty (60) feet of right of way based upon the fact that it is non-buildable we figured \$3300.00 to be enough to cover the cost to the Village of the publication and for any time he had into it and put some money in the Village's pocket for the cost of the land. With the balance now the Village can think about what they want to do with the remaining thirty-eight (38) feet. So, that's the way the Ordinance has been crafted, it's been crafted in such a way that if the board were to approve it by a seventy-five (75) percent vote that twenty-two (22) feet would be vacated and the legal description of that vacated piece of property then assimilates with the adjoining property and I think there's some confusion in that because I think the perception is well if you have a lot that is sixty (60) feet wide why don't we vacate the whole lot and sell it as a buildable parcel for ten (10) or fifteen (15) thousand dollars or whatever the going rate is but that's not the way the vacation statute works. The vacation statute states that the legal description of the vacated property, I can't remember if it says assimilates or if it just says merges with the deed and the legal description of the adjoining property that's accepting title to the property. Trustee Vick: You can't sell it to Chad who lives over here. Attorney Shaw: Right. Trustee Vick: Because he doesn't own that and that's the way the statute reads. Attorney Shaw: Right. In my legal opinion the Village did not have the option of creating a lot that they could then sell off and I think the legislature intended it that way because they didn't want Village's looking to like create their own little subdivisions by vacating right of ways and allowing people to just buy them on the open market and build there. So, that's where we are at. The proposal on the table right now is that the Village vacate the western twenty-two (22) feet and that the balance of the property remains platted right of way for the sum of \$3300.00 dollars. I am holding a check in escrow from Mr. Taradash in the amount of \$3300.00 dollars so should the board approve the Ordinance tonight that's exactly what would happen, we would vacate it, we would accept his \$3300.00 dollar payment and that legal description that's on the plat of vacation gets recorded with the county and it merges with the legal description of the adjoining property. Trustee Vick: What would be the ramifications if we decided to just say against your judgment say we're going to vacate the whole thing and try and sell the lot. Attorney Shaw: Well I mean you could try it, I think the problem you're going to run into is when you get to the title company

the title company says o.k. by what process did this legal description come into existence because right of ways don't have legal descriptions. Trustee Vick: Correct. Attorney Shaw: You have to have a plat of vacation done to create that legal description. Yeah, so if you vacate it the question is now that it's vacated who does it belong too, because unless it assimilates immediately with an adjoining property you have a legal description that has no owner. Trustee Vick: You have to vacate it to somebody that is an owner. Attorney Shaw: Yes, because you have no chain of title. Trustee Vick: And we can't say we're waiting to sell it. Attorney Shaw: Right, how do you convey something that you no longer own? Trustee Vick: Gotcha, thank you. Attorney Shaw: Now perhaps in the history of our State there's been an instance where a Village tried that and they said o.k. we're going to sit down at the closing company and in front of the title agent we're going to sign this piece of paper that vacates it and person B over here is going to immediately purchase that legal description. You still end up in a situation or for that split second you have property that is not in the chain of custody of any owner which it becomes an abandoned orphaned parcel. So, I think the legislature's intent with the idea that the legal description assimilates into the adjoining property for just that reason. Here is my final thought. My final thought is that according to the history of this Village and from what I've heard anecdotally and what I could find in aerial photography they've been parking on that piece for twenty (20) plus years. There is something called adverse possession under the law and what that means is that you possessed property that isn't yours without permission in an open and obvious condition for at least twenty years. The parking has been there for more than twenty (20) years. Now typically the municipalities enjoy the right to defend that by simply saying we are a Municipal entity and you can't exercise that adverse possession on public property, however I did print this out and I wanted you guys to hear it straight from a primer on adverse possession. It says property held by a Municipal Corporation for public use as a general rule cannot be acquired by adverse possession of description. That all sounds really good, the problem is this rule is subject to exceptions and limitations in the case of Municipalities that may surprise an unwary practitioner. One exception is contained within the statement of the rule itself. The rule applies only to municipally owned property that is held for public use. Thus in the City of Chicago the middle brook it was held to the statute of limitations would run to permit the acquisition of title by an adverse possession as city owned property when the court found the absence of a public use and effectively the court found that the land wasn't devoted to a public use, was not being held for a public use or purpose and it appeared from the evidence that the Municipality was literally doing nothing with the property. I don't know how we defend that. Mr. Taradash has a law license, he is not a stupid man and when he sort of threatened that adverse possession suit my first instinct was that's great you threaten all you want because we're a Municipal Corporation but it got me thinking so I went back and did my homework and I came upon this exception. So, in my guestimation our options are we take

\$3300.00 dollars, we vacate twenty-two (22) feet of right of way that has been on nobody's radar, on nobody's plans and nobody's mind for the last fifty (50) years and sell it for \$3300.00 dollars to a property owner who basically has been using it for parking for the last twenty-five (25) years or we tell him no, thank you very much for coming. It's absolutely you're right to do that and we run the risk that he decides to well you know what I've been here for twenty (20) plus years, guess what? Here's my suit for adverse possession, quiet title and my guess you got \$5000.00 dollars into a lawsuit before you've got an answer on file. I'm not saying that to strong arm anybody but that is certainly his right to attempt to persuade my opinion on it by taking legal action. My job is to evaluate the legal risk and liability and exposure that we have within any given circumstance and to me it seems like he has a pretty good case. Trustee Bogacz: My question is, if we were to say no what is the Village's plan for that piece of property there. President Shepit: Same as the last fifty (50) years, you can't put a road in there because there's a house on the other side. Trustee Bogacz: Not a God darn thing. Trustee Walter: You could turn it into a park. Trustee Thompson: Park/garden something. Trustee Walter: Yeah, anything. President Shepit: With the remaining what you've got there is what we thought should be done but who knows if that would even happen. Trustee Thompson: Right. President Shepit: With that remaining footage there it would be great to have a park. Trustee Zakrocky: So Jeremy I have a question for you. If Taradash does pursue legal action and correct me if I'm wrong, legally he could take the whole parcel. Attorney Shaw: Yeah, you know I think there's a.. I've thought about that to be honest with you. Trustee Zakrocky: Because what makes the difference if he's parked here or he's parking here, it's still on that piece. Attorney Shaw: I think he'd have to make a demand and it would be our job to argue that he's only entitled to make a claim if at all to this much property. He hasn't adversely possessed the balance of the property that would be a legal defense. I assume that if you were to pursue legal action he'd just claim the whole piece and it would be our job to narrow that down, narrow the scope of the demand and again I'm not putting it out there to make you feel pressured again, it is what it is. If we deny it we deny it and he's free to do what he's going to do, maybe he doesn't, maybe he just goes away and decides he's got a better route to squeeze a driveway in next to his house. Trustee Bogacz: He's an attorney too. Trustee Zakrocky: And what's it going to cost him to represent himself. Trustee Bogacz: Yeah. Attorney Shaw: Oh about \$175.00 bucks to file a suit and \$50.00 bucks to have it served. Trustee Bogacz: If there's no plans for the Village for that whole piece of property, this way if we were to do this I can see it as more of an advantage to the Village than anything, because we're still keeping a piece of that property and we can put a park out there if we want to or whatever and do it plus, I know it's not much but we can get a little bit of taxes on that property too. It's not much it might be only \$10.00 or \$15.00 bucks but its \$10.00 or \$15.00 bucks we didn't have. Trustee Zakrocky: Plus an additional \$3300.00. Trustee Bogacz: Right. Deputy

Clerk Prehn: I have a question, say your lot was \$10,000 and they are taking a third of this lot so it's \$3,300 hundred dollars. Attorney Shaw: And that's what we based it on but then there's a discount for the non-build ability on it and that incorporates what our costs were so we're not out of pocket. Deputy Clerk Prehn: If someone bought it you're not going to get much more because they are going to have to take down the trees and clear it. Trustee Vick: Yeah, you have an easy \$10,000 grand in just making that lot even buildable. Trustee Walter: Adam's lot was smaller than this one. Attorney Shaw: But with that, that's really all I had. I've questioned problems, issues I'm happy to answer anything I know. I'm happy to talk about whatever is on the table. Again, it makes me no difference gang to be honest with you I'm shooting myself in the foot because who's going to benefit at this table if he sues the Village? Trustee Bogacz: You. Attorney Shaw: I can't handle it for free but again that's not a reason to do it. If you stand opposed to doing it in general then that's your position and I understand that. I'm just telling you from a logical perspective I think it just makes sense to at least consider it, that's all. Trustee Bogacz: I see it as an advantage to this Village more than a disadvantage. Trustee Bogacz: I'm going to make a motion – Clerk Messina: No, were not there yet. Attorney Shaw: There's an actual Ordinance that we'll get to later. President Shepit: Questions? Deputy Clerk Prehn: I have a question, there needs to be a seventy-five (75) percent vote, that's all six (6)? Attorney Shaw: Six (6) out of seven (7) She can vote (pointing to President Shepit). Deputy Clerk Prehn: Oh. The President is allowed to consider the vote in any case if A. There's a tie, or B. they call for something other than a normal majority vote, such as a super majority or seventy-five (75) percent. Deputy Clerk Prehn: I thought I was doing my math wrong. Attorney Shaw: It's actually five (5) and a quarter vote. Trustee Vick: I was going to ask but I didn't want to sound stupid. Trustee Bogacz: If we go through with this that other portion that is still ours do we now put up signs again for no parking? President Shepit: Yeah. Trustee Vick: You can't it's that wooded. President Shepit: Well that too. We'll put up an arrow sign for the end of Forest View but in that area that's just so many trees. Trustee Bogacz: Because we don't want somebody to take over again, so this doesn't happen again. President Shepit: The arrow sign will still go there by the edge of the property. Trustee Bogacz: O.k. Attorney Shaw: Anyone else have questions, or any public comments? Attorney Shaw: We can close the Public hearing. President Shepit: We need a motion to close. Trustee Bogacz: Made a motion to close the Public hearing at 7:32 P.M.; seconded by Trustee Fritz. Voice vote: Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky=ayes. All in favor, motion carried. Roll call to go back into regular session at 7:33 P.M. by Clerk Messina. Present: President Shepit, Trustee Bogacz, Fritz, Thompson, Vick, Zakrocky=ayes. Trustee Walter=Nay. Deputy Clerk Prehn & Trustee Bogacz: Did you say Nay? Clerk Messina: We're just going back into the regular meeting. Trustee Walter: Aye, sorry I thought you were taking a vote. Clerk Messina: No. Trustee Bogacz: No, we can't take a vote in a Public hearing.

**Audience:** Deputy Clerk Prehn: Petro Choice has changed to Blue Petroleum in case you were wondering why your gas bill is from Blue Petroleum that's why. Trustee Vick: They bought out Petro Choice. Resident Kathy: The stops signs can we just make sure that the growth isn't too high because the one on Hickory and Fountain it's hard to see around the bush. Trustee Thompson: There are many blind spots throughout the Village, even in front of the little store somebody's going to get smoked coming out of there. President Shepit: Yeah, the owners need to trim those back. Trustee Zakrocky: What about the signs? Are those on us or the residents? President Shepit: She can have Paul go out there. Deputy Clerk Prehn: Just to let you know that we are going through Warehouse Direct for Office supplies and building supplies now because Staples no longer accepts our Tax Exemption certificate and they also stopped invoicing us so then we have to put it on our credit card and when we need a lap top because of the other supplies that we ordered we went over our limit which is \$1500. Warehouse Direct bills us, they're cheaper and they take our Tax Exemption, but we need to get another credit card maybe one for the Police Department. Lori can check with the State Bank Group that we have our loans with and get back to us at the next meeting. Trustee Vick: It would be a good idea for the Police Department to have their own.

**New Business:** Approval of Supplementation Services & Online Code Quote for Civicplus. Clerk Messina: This is for Ordinance Codification that I send in to them and they scan it and send it to our online Code of Ordinances, it's something we have to have and they took over Municipal Code Corporation. Deputy Clerk Prehn: What they did is they took an average of what we send each year and they are asking for an annual payment instead of charging us for each one we send in. Trustee Vick: Made a motion for the Approval of Supplementation Services with Civicplus; seconded by Trustee Zakrocky. Voice vote: Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky=ayes. All in favor, motion carried.

Ordinance Vacating a Portion of Forest View Drive in the Village of McCullom Lake. Trustee Bogacz made a motion to approve Ordinance #563 An Ordinance Vacating a Portion of Forest View Drive; seconded by Trustee Vick. Voice vote: Bogacz, Fritz, Thompson, Vick, Zakrocky, President Shepit=ayes. Trustee Walter=Nay, motion carried.

Approve Annual Illinois Municipal League Management Association bill of \$29760.00 for year 2025. Trustee Bogacz did talk to another broker and thinks the bill is too high and next year she will look for a better rate because she feels our loss ratio needs to be questioned because it's never been questioned. Trustee Bogacz made a motion to approve the bill for \$29760.00; seconded by



Trustee Fritz. Voice vote: Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky=ayes. All in favor, motion carried.

**Discussion:**

September 14<sup>th</sup>, 2024 Neighbors Helping Neighbors Corn Roast will be held in the Knolls parking lot from 1:00 to 5:00 P.M. with all proceeds going to Neighbors Helping Neighbors.

September 21<sup>st</sup>, 2024 Car Show

October 19<sup>th</sup>, 2024 Village Bonfire – Bring your own drinks, there might be hot dogs available.

Trustee Bogacz made a motion to adjourn the meeting at 7:55 P.M.; seconded by Trustee Vick. Voice vote: Bogacz, Fritz, Thompson, Vick, Walter, Zakrocky=ayes. All in favor, motion carried.

The next Village board meeting will be September 24, 2024 at 7:00 P.M.

Marilyn Shepit  
Village President

Sherri L. Messina  
Village Clerk