

VILLAGE OF TOLONO
TOLONO, ILLINOIS

Minutes of the regular meeting of the President and Board of Trustees of the Village of Tolono, Illinois, conducted on March 19, 2013.

I. Call meeting to Order.

(1) The meeting was called to Order by Trustee Jeff Holt at 6:30 p.m., in the absence of Mayor Kent Plackett. Present were Trustees Dennis Davis, Greg Kingston, Mike Golish, Jeff Holt and Tom Reese. Trustee Ryan Perry and Mayor Kent Plackett were absent. Trustee Perry arrived at about 7:00 to 7:30 and remained for the rest of the meeting.

(2) Guests present included Paul Hendren, substitute Village Attorney for Marc Miller who was absent, William Ralph Norton, Chair of the Village Plan Commission, Kevin Applebee, owner of 508 N. Calhoun, Tolono, Steve Sheffler, Attorney for Kevin Applebee, Steve Starwalt, owner of 514 N. Calhoun, Tolono, Eric Wishall and Jason Wishall, owners of 506 N. Calhoun, Jim Snodgrass, Brian Neverman, Marlious Gregerson and Timothy J. LaRocque of Foth, Village Engineers.

(3) Since Mayor Plackett was absent, Trustee Golish moved that Trustee Jeff Holt be appointed president pro-tem for the meeting. The motion was seconded by Trustee Davis. All Trustees voted aye. Motion carried and Trustee Holt thereafter presided as President pro-tem.

(4) Since the Village Clerk was absent, Trustee Holt requested that Village Attorney Paul Hendren serve as acting Clerk for the meeting, to which the Trustees agreed, and Paul Hendren served as the Acting Clerk for the keeping of these minutes.

II. Roll Call.

Present: Trustees Davis, Kingston, Golish, Holt and Reese.

Absent: Mayor Plackett and Trustee Perry.

III. Approval of March 5, 2013 Minutes

Motion was made by Mike Golish and seconded by Tom Reese to approve the minutes of March 5, 2013. All Trustees voted aye on a Roll Call. Motion carried.

IV. Reports.

1. Engineers Report. Timothy J. LaRocque, a civil engineer from Foth, the Village Engineers, was present and explained the following:

- (a) The total MFT estimated expenditures are \$248,339.91.
- (b) The total TIF estimated expenditures of said project are \$63,000.00.
- (c) Contracts for this work will be necessary.
- (d) An engineering Agreement between Foth and the Village for this work will be necessary.

(e) Mr. LaRocque was directed to provide his specific agenda items to the Village Clerk for the next Village Board meeting on April 2, 2013 for Trustee action, together with any other timely action items.

2. Public Works Report. None was presented.

3. Treasurers Report. None was presented.

V. Public Hearing Regarding Rezoning of Properties at 506, 508 and 514 N. Calhoun, from R-2 to R-3 Zoning Classification.

(1) Attorney Hendren stated that the required Notice of the 3/19/2013 Plan Commission Hearing and the 3/19/2013 Village Board Hearing regarding this rezoning request had been duly published in the News-Gazette on March 2, 2013 and a Certificate of Publication was provided for the Clerk.

(2) Attorney Hendren handed out a marked Sidwell map showing the yellow-highlighted three properties, providing one for the Clerk.

(3) Attorney Hendren informed the Trustees that Miller & Hendren had caused notices to be mailed to the owners of property within 200 feet of subject property as required by law, and a certificate of such mailing was presented for the Clerk.

(4) Frank Norton, Chair of the Tolono Plan Commission rendered an oral report to the Trustees of the 5:30 p.m., March 19, 2013 Public Hearing and meeting held by Tolono Village Plan Commission on this R-2 to R-3 re-zoning request for these 3 lots, stating:

(a) The Lot at 506 N. Calhoun is an illegal lot in that the south 30 feet thereof was previously acquired from the lot abutting 506 N. Calhoun's south boundary.

(b) The Lot at 508 N. Calhoun, the Applebee Lot, is 100 feet wide by 120 feet deep, which does not meet the minimum lot size for an R-3 lot.

(c) The Lot at 514 N. Calhoun is also too small for an R-3 lot.

(d) Rezoning these three lots R-3, as requested, would constitute spot zoning, since all the surrounding area is R-2 and the property in question is R-2, and so the rezoning is not advisable.

(e) The requested rezoning potentially reduces the value of other area property.

(f) This rezoning from R-2 to R-3 could cause other vacant R-2 lot owners in the Village to seek R-3 zoning also, which would be bad.

(g) Some neighbors of the property opposed the rezoning.

(h) Several persons who supported the zoning did not have good reasons for their support, said Mr. Norton.

- (i) The official recommendation of the Plan Commission, approved at its 3-19-2013 duly conducted meeting at which a quorum was present, was that the requested rezoning from R-2 to R-3 for these three lots be denied by the Village Trustees.
- (5) Jim Snodgrass spoke in support of the existing zoning provisions and earlier zoning practices, and said this would seem to be spot-zoning.
- (6) Kevin Applebee, the owner of 508 N. Calhoun, spoke:
- (a) He distributed a 4 page handout regarding the property, given to the Clerk.
 - (b) He said there were many non-conforming duplexes in town.
 - (c) His planned duplex provides off street parking for 6 automobiles.
 - (d) The earlier public hearing on his duplex rezoning did not have any person speaking in opposition.
 - (e) There are duplexes on each side of his vacant lot.
 - (f) No one, including him, would build a single family house here between two duplexes.
- (7) Steve Sheffler, attorney for Kevin Applebee, spoke:
- (a) This is not spot zoning since there are three adjacent properties which would be zoned duplexes and duplexes are a transition from the adjacent R-2 single family residences.
 - (b) A portion of the Plan Commission meeting was conducted without the owners and Mr. Sheffler being present.
 - (c) He believes that Mr. Applebee's lot has sufficient width for an R-3 lot, since, under Zoning Ordinance Section 4.2.6, the R-3 lot width need only be 65 feet.
 - (d) A new duplex would add \$3,500.00+/- real estate taxes for the benefit of the public.
 - (e) The duplex usage would be consistent with the duplex usage on each adjacent property.
 - (f) Mr. Applebee's planned duplex is 52 feet wide by 48 feet long and has 24 foot side setbacks.
- (8) Brian Neverman said this lot has long been vacant, that its use as a duplex would be good, and a duplex would not adversely affect the neighborhood, which already has several duplexes.
- (9) Marlious Gregerson, the mother of Steve Starwalt, the owner of 514 N. Calhoun, stated that this would be a good use of the vacant lot and a duplex between two other duplexes would not be harmful to anyone.
- (10) Steve Starwalt, the owner of 514 N. Calhoun spoke:
- (a) He is petitioner for the zoning change.
 - (b) A duplex would be the best use of the vacant lot.
 - (c) No one would build a single family dwelling between two duplexes.
 - (d) He has a good record for maintenance of his rental property within the Village.
- (11) Eric Wishall, a co-owner of 506 N. Calhoun, stated that they were good landlords and kept their property in good repair and that R-3 zoning would be consistent with the existing two duplexes.

(12) Jason Wishall, a co-owner of 506 N. Calhoun, stated that he supports the rezoning and Mr. Applebee's proposed building.

(13) A motion to close the public hearing was made at about 8:00p.m. by Trustee Davis and seconded by Trustee Kingston. All Trustees voted aye on a roll call vote. Motion carried

VI. Old Business - Review and/or approve zoning issue on Calhoun Street.

(1) The Trustees discussed the pending rezoning request for the lots at 506 N. Calhoun Street, owned by Eric Wishall and Jason Wishall, 508 N. Calhoun owned by Kevin Applebee, and 514 N. Calhoun owned by Steve Starwalt, and offered their comments as follows:

(a) Trustee Golish would prefer to delay voting on the zoning, as he needs more time to consider all aspects of the request.

(b) Trustee Ryan Perry said he supports the requested rezoning.

(c) Trustee Davis said he supports the recommendation by the Plan Commission and that he would vote against the rezoning.

(d) Trustee Kingston said that he, too, supports the recommendation of the Plan Commission and that he would vote against the requested rezoning.

(e) Trustee Reese stated that he was "kind of for it" but not completely sure.

(f) Trustee Jeff Holt said he supports the rezoning request.

(2) Trustee Holt made a motion to table the proposed rezoning ordinance until the 4/2/2013 meeting. Trustee _____ seconded the motion. Three Trustees voted yes and three Trustees voted no. The motion to table did not pass.

(3) Attorney Hendren explained that if they took no further action tonight, that effectively tabled the subject.

(4) Attorney Hendren said four trustees favorable votes were needed to pass the re-zoning ordinance since the Plan Commission had recommended against the requested re-zoning.

(5) Trustee Kingston made a motion to pass ordinance No. 2013-O-4 entitled "An Ordinance Rezoning 506 N. Calhoun, 508 N. Calhoun and 514 N. Calhoun from R-2 to R-3" being Ordinance 2013-4, as presented. Ryan Perry seconded the motion.

(a) Trustee Golish recused himself and absented himself from the room before the vote was taken and accordingly cast no vote on the motion, either directly or by virtue of the Prosser rule, whereby an abstention is considered a vote cast with the majority of those voting on a question.

(b) Roll call vote: Trustee Davis - No, Trustee Kingston - No, Trustee Reese - Yes, Trustee Holt - Yes, Trustee Perry - Yes.

(c) Attorney Hendren stated that the Village Zoning Ordinance requires that a rezoning must be supported by four Trustees if the Plan Commission has recommended that

the rezoning be denied. Therefore, although three votes were cast in favor of the motion and only two were cast against the motion, the Ordinance did not pass.

- (d) Attorney Hendren stated that the ordinance could be considered again later at a subsequent meeting and if Trustee Golish determined that he supported the rezoning ordinance and so voted at a subsequent meeting and all other Trustees cast the same votes, then said ordinance would pass with four Trustees' votes, subject to the approval/veto action of the Mayor.

VII. New Business - Sewer Credits

A motion was made by Trustee Davis to approve a proposed Sewer Credit being credited for Absolute Style at 105 N. Watson, Tolono, account number 0040068200 in the amount of \$55.76. The motion was seconded by Trustee Golish and passed 6-0 on a roll call vote.

VIII. Adjournment

Motion was made to adjourn by Trustee Golish. The motion was seconded by Trustee Davis. All Trustees voted aye and the meeting was adjourned at 8:55 p.m.

Taken & Submitted by Attorney Paul Hendren