

MINUTES OF A MEETING OF THE AD HOC COMMITTEE FOR COMMUNITY
PLANNING OF THE VILLAGE OF KENILWORTH HELD AT THE VILLAGE HALL,
419 RICHMOND ROAD, AT 7:00 P.M. ON TUESDAY, JANUARY 18, 2005.

Chairman Hester McCarthy was present and called the meeting to order at 7:00 p.m. Max Slankard acted as Secretary and called the roll as follows:

Present:	Hester McCarthy	Chairman
	Randal Nelson	Member
	Bill Folland	Member
	John McGinnis	Member
Absent:	Beth Baxter	Member
	Bob Smietana	Member
	Tim Dugan	Member
Other Village Officials Present:	Max Slankard	Village Manager
	Susan Criezis	Building Coordinator
	Larry Murrin	Building Inspector
	Phil Brunell	Police Lieutenant
Others Present:	Jackie Bossu	614 Earlston Road
	Gwen Sommers Yant	706 Cummings Road
	Craig Miller	36 Kenilworth Avenue
	Rob Deptula	610 Roger Avenue

Chairman McCarthy called the meeting to order, and introduced for approval the minutes of the January 5, 2005 meeting. Mr. McGinnis made a motion to approve the minutes as presented. Mr. Folland seconded the motion which, upon voice vote, was unanimously approved.

The Chairman advised that the agenda for the meeting tonight is to review the Village's construction management practices. She noted that Ms. Criezis, Mr. Murrin and Lt. Brunell were present. She asked that the Village Manager update the Committee regarding the Village Board's action on procurement of services to undertake field survey services relating to the Committee's dimensional recommendations. Mr. Slankard reported that the Village Board had authorized the Village Manager and the Building, Planning and Zoning Committee to procure those services, in an amount not-to-exceed \$35,000. He advised that he is attempting to schedule interviews with three firms, to be held tentatively on January 24th.

The Chairman then reviewed the results of Question #5 in the community-wide survey relating to construction management. She noted that 62% of residents completely or somewhat agree that the current construction hours are appropriate; 57% agree that contractors have been responsible and courteous working in their neighborhood; 55% agree that appropriate notice of additions is given; 54% agree that appropriate notice of demolition and new home construction is given; 48% agree that contractors and delivery trucks use village streets safely and appropriately; 43% agree that adjacent properties are adequately protected during construction; and 42% agree that construction site management and the impact of construction vehicles has allowed them the continued enjoyment of their property.

She noted that Ms. Criezis had sent out to Committee members the Village's Construction Site Maintenance Requirements and related information, and briefly reviewed the listing. Mr. Nelson

asked if these requirements were supported by Ordinance. Ms. Criezis replied that they are not. Mr. Murrin added that violations of these standards could result in the placement of a stop work order on the project, with a resulting \$500 fine. The Village Manager commented that portions of the Site Maintenance requirements are supported by Ordinance. However, they are not gathered under any one Ordinance; for example, some elements would be supported by the BOCA Code, which is backed by a Village Ordinance; other elements are backed by the nuisance Ordinance. He also noted that the threat of a stop work order (“red tag”) should not be discounted, as it does carry a cost penalty, and does stop any construction activity on a site. Mr. McGinnis stated that these requirements should be put into Ordinance form. Mr. Nelson asked if that was common in other Villages. Mr. Murrin replied he thought that it was. The Chairman asked if there were any comments from the floor at this point. There were none.

The Chairman noted that she had received a letter from Lorraine Barba regarding some of her observations on construction practices. Ms. Barba expressed concern regarding noise, the blocking of driveway access by construction vehicles, and the impacts of construction debris and activity on sidewalks. The Village Manager asked Lt. Brunell to comment on the noise Ordinance. Lt. Brunell stated that the Police Department follows a three step process. These include trying to educate the contractors; progression to a warning ticket; and issuance of a citation. He noted that the fine for a noise Ordinance violation is only \$20. Mr. Nelson asked if there was a decibel limit in the Ordinance. Lt. Brunell replied that there was not, and the Department does not have a meter to measure noise. Mr. Murrin added that, in his experience, even with meters, it is difficult to enforce. Lt. Brunell noted that most complaints the Department receives do not relate to noise volume, but rather to the noise taking place either before or after the hour limit. Mr. Nelson asked the frequency of such complaints for any given project. Lt. Brunell replied that it tends to happen in the early part of a project, and then tapers off in frequency as the contractors become educated. The Committee suggested that the Village look towards the adequacy of the fine amount.

Ms. Criezis observed that one issue she and Mr. Murrin have discussed is that the construction site requirements may not be seen by the subcontractors working on the site. She also noted that, frequently, the homeowners pick up the permits, as opposed to the contractor. She suggested that the Village could require the general contractor to sign off on the maintenance requirements. Mr. Craig Miller asked if the requirements could be put onto the project plan sheets as a legend. Ms. Criezis replied that was an interesting thought. The requirements could be put on the plans as a sticker on the permit set as well. Mr. McGinnis asked, under a noise Ordinance violation, who gets the citation if one is given. Lt. Brunell replied it is whoever is making the noise.

With respect to violations and fines, Ms. Criezis suggested that the Village give consideration to a progressive fine system. Mr. McGinnis asked if other Villages require the posting of any type of bond for that purpose. Mr. Murrin replied that Northfield requires a \$2,000 cash bond. Mr. Nelson asked who posts such a bond. Mr. Murrin replied sometimes it is the property owner, other times it is the contractor. The Committee discussed the concept of a performance bond as a percentage of project cost. To make that process and the bond amount cleaner, the Committee suggested developing more standardized bond amounts, perhaps based on the type of project. The Committee directed that staff look into this concept.

Discussion ensued about certificates of occupancy. It was noted that the C.O. requirement is not well established by Ordinance. Ms. Criezis noted that this can be a problem with additions, as in many instances, the owner continues to occupy the home while the addition is being done. It was suggested that a cash bond or escrow requirement could be assistive in this situation as well. Ms. Criezis advised that the Village holds a \$3,000 cash bond for parkway and street openings, and

her sense is that has worked well. Mr. Slankard cautioned that the Village would need to study this matter and set appropriate bond amounts based upon the size of the job. He noted that residents are not always pleased to have the Village holding their funds, and there are times when residents have difficulty getting contractors to finish the job and enable them to get their funds back. He cautioned the Committee that, for many of these discussion points, there is another side to it they should be aware of. Mr. McGinnis stated that the Village should do something with this bond concept. Mr. Nelson expressed that he felt it should be the owner's money that is held, as the contractor works for them. He added that the whole inspection process is done on behalf of the owner, to protect their interests and investment. The Village Manager agreed, but noted that it is not always perceived that way by the owner if there is a conflict between the Village and the contractor as to how a project is being constructed.

Chairman McCarthy called for discussion of the driveway blockage issue. The Village Manager noted that often, the parking issues are relatively short term, and by the time the Police Department responds the vehicle is no longer parked there. Lt. Brunell advised that the Police Department has had a Community Service Officer who serves as the parking coordinator for construction projects, and that he (Lt. Brunell) will now be overseeing that activity. When demolition permits or significant addition permits are issued, the contractor is required to meet with the parking coordinator to determine how and where vehicles will be parked. He advised that deliveries to construction sites are often a problem. The standard practice over the last two years has been to prohibit parking immediately in front of the construction site, so that when deliveries arrive, there is space for the delivery vehicle to park and not obstruct traffic flow. This has seemed to work well. The Village Manager added that adjacent residents are not always pleased about construction worker vehicles being dispersed along the street in front of other homes, but it does accomplish the primary objective of keeping the street open and passable. Lt. Brunell noted that the parking coordinator tries as much as possible to get worker parking on the project site. The Chairman asked the cost of a parking ticket. Lt. Brunell replied that it is \$20, and can go up to \$100 over time. Concern was expressed that the fine amount was too low.

The Chairman noted that one issue that had been raised in her conversation with Mr. Murrin was the location of portable toilets on job sites, and that many residents find the location of such facilities to be a problem. Mr. Murrin noted that such facilities tend to be located in front yards. He noted that larger lots have more room in which to hide those facilities, but for smaller lots, it is difficult. He also advised that most such facilities are serviced periodically by a service truck, and those vehicles have a limited amount of hose length to reach the facilities. Mr. McGinnis felt that the Village should be more assertive in this area, and the difficulty that vehicles have servicing the facilities is not the Village's problem. The Chairman agreed. She noted that while some contractors may make efforts to camouflage the facilities, that doesn't work, and the solution is to change the location. Mr. Folland noted a recent addition/remodel on Oxford Road where the facility was located right by the street. Mr. McGinnis stated that he considers that to be a nuisance and the Village should shut down such sites to force the facilities to be moved. On the Construction Site Maintenance Requirements sheet item that relates to this topic, she directed that the expression "to the extent possible" be deleted.

Mr. Nelson asked who would be responsible for enforcing the location of such facilities. Mr. Murrin replied it would be him. Mr. Nelson asked if he had the time to do so. Mr. Murrin replied probably not. He suggested that the Village could try to vigorously enforce such a requirement early in the job. Mr. Nelson asked how many projects are going on in the Village at any given time. Mr. Murrin estimated 15. He noted that he may not normally get by some job sites more than once every two weeks. Mr. Nelson suggested that there may need to be some flexibility in the Village's approach.

The Chairman noted that another issue is notification to residents of construction projects. Ms. Criezis advised that, unless the project is a demolition, or an addition that requires some type of variance, there is no notice given to surrounding property owners on a job getting under way. Mr. Slankard noted that the Village's approach has historically been that, if a proposed project is legally compliant, there is no need for notification. Mr. Nelson asked who would or could do such notification. Mr. Slankard replied that the owner or contractor could be required to do so. He expressed concern about the Village's resources to do so. Mr. Folland observed that neighbors don't seem to speak to each other any more on such things. The Committee discussed a recommendation that the property owner be required to notify the adjacent neighbors on each side, and across the street, when exterior work, including additions or anything larger, is about to take place.

The Chairman asked about the protection of adjacent properties during construction. Ms. Criezis advised that in the case of a demolition and new construction, construction fencing is required until the time when the structure is secured. In the case of additions, no such fencing is required. The Village Manager observed that contractors had begun installing such fencing prior to the Village requiring it. He also noted that as recently as three years ago, the sense of the Village was that neighbors did not want to see large-scale use of such fencing because of its aesthetic impact.

Mr. Nelson asked what other related issues people complain about. Ms. Criezis advised that damage to property line landscaping is often a concern. Ms. Gwen Yant commented on one project on the west side that had difficulty with construction debris falling onto their property, and nails in the driveway. Mr. Nelson advised that he had experienced that too, but that he viewed that as the contractor's issue, not the neighbor's issue. Mr. Nelson asked if more vigorous enforcement was a resource/manpower issue. Ms. Criezis replied that it was. Ms. Jackie Bossu asked if part of the concern about damage to adjacent properties could be residents experiencing problems like cracks in the basement or foundation walls. She asked if there was any way for homeowners to be compensated for such damage. Ms. Criezis replied that is generally a civil matter between the property owners, and there is really no way for the Village to get involved. Ms. Bossu asked if the Village requires any type of bond. Ms. Criezis replied that, with the exception of the demolition process, no. Mr. Slankard added that bonds, if posted, are very difficult to collect, as the issue generally goes to the surety on the bond, which is essentially the same as dealing with an insurance carrier. The difficulty is that the cause of the damage must be able to be proved, and that is not often simple to do.

Mr. Nelson asked about issues with stormwater impacts. Mr. Slankard replied that stormwater management is an issue at times in the Village. He noted that Cook County does not have stormwater standards like Lake County does. Therefore, each Village may, or may not, be regulating stormwater. He noted that drainage issues on the west side of the Village are generally easier to deal with, as the west side is served by a separated storm sewer system, and therefore, properties can be drained easier. On the east side, given the combined sewer and the topography of lots, drainage issues are generally more difficult to work with. Mr. Nelson asked if, in the staff's opinion, this has been a significant issue. Mr. Slankard replied that there have not been too many problems, although it has been a frequent concern for residents. New homes are required to submit before and after topographic surveys to demonstrate that the grade has not been altered. It was noted that, for more minor projects, this is not done. Ms. Yant asked about conditions on the west side, noting the generally smaller lots and more intensity of impervious surface. Mr. Slankard replied that, even with that, there do not tend to be drainage problems on the west side, because of the ability to drain the properties to the storm sewer system.

The Chairman asked to return to the property damage issue, and referenced a particular complaint regarding damage to a wall. Mr. Murrin advised that the contractor's do have insurance, and if there is a damage claim, then the damaged party can submit a claim. However, as to payment, that is a civil matter. He suggested that owners of adjacent properties should take pictures or videotape of their property prior to commencement of construction to document existing conditions. With respect to the construction hours limitation, the Chairman asked what holidays are included in that. Mr. Slankard replied that he did not know, but he would find out, and these can be specified in the future. Ms. Bossu asked when the final topographic survey is done, and whether it could be done before the project is completed. Mr. Slankard replied that it is done at the completion of the project, prior to the issuance of the certificate of occupancy. If the survey is done prior to finalizing the grading, then any discrepancies would be attributed to the final grading not being completed. Ms. Bossu commented that one thing that might benefit residents is if the Village could do education on issues that may take place when construction is done on adjacent properties, and ways property owners can protect themselves. The Chairman commented that it could be done as a newsletter article for the whole Village, and then sent to those residents who receive notice for demolition hearings.

The Chairman asked to review the listing of items on the maintenance requirements sheet. Mr. McGinnis asked if the removal of all litter and debris from construction sites once per week was sufficient. He suggested that all debris and litter should be deposited in a roll-off box or dumpster, and saw no point in being ambiguous on that point. The Chairman added that the dumpster should be required to be emptied when full. On bullet point three, she suggested the replacement of "or" with "and". Mr. Nelson felt it important to clarify that all parking regulations for construction parking are to be determined by the Police Department, in their sole discretion. Mr. McGinnis asked about the reference to use of appropriate dust control, and whether that reference was sufficient. Mr. Slankard replied that he felt it was fine, and that it reflects the wording in the BOCA code, which is backed by Village Ordinance.

The Chairman asked for the Committee's sense on portable toilets. Mr. Nelson asked about the service vehicle access issue. Mr. Miller suggested that, if that were an insurmountable obstacle for the service vehicles, the contractor could use some type of equipment to move the facility closer to the road when it needs to be serviced. Mr. Folland suggested that the facilities be required to be placed at the rear of the property, unless the contractor can demonstrate some hardship. Mr. McGinnis agreed. The Chairman added that if we are educating residents on construction issues, we can alert them as to the requirements for placement of portable toilets, and they can help the Village enforce the requirements. Mr. Nelson stated that he liked Mr. Murrin's suggestion, which was to require the contractor to identify on their plans the proposed location.

On the posting of bond, Mr. McGinnis stated that the Village should establish a performance bond requirement, and that the staff needs to investigate and make a recommendation as to the dollar amount of the bond, based upon the size and nature of the project.

Mr. Folland asked about the Village's requirements for street restoration, noting that some patches sink over time. Mr. Slankard replied that the Village has begun requiring, in the last two years, a \$3,000 cash bond for parkway or street openings. With respect to the repair, the Village has also begun requiring contractors to backfill street openings using flowable fill. Mr. Murrin advised that flowable fill is similar to cement, so the repairs will not settle over time.

The Chairman asked that Village legal counsel look at the performance bond issue and make a recommendation. Mr. Folland noted that the Certificate of Occupancy issue needs to be looked at as well, to tie into the completion of the project and final inspection. The Chairman also

commented on the construction notice issue, advising that neighbors across the street from a project should be notified as well as those along side. Mr. Rob Deptula suggested that the Village could use the website or Channel 10 to inform residents about construction permits issued. Mr. Nelson expressed some concern as to what residents expect with respect to notification, if an addition or project is legally conforming. Mr. McGinnis replied it is just helpful for neighbors to know what is happening next door to them.

Mr. McGinnis made a motion that, to the maximum extent possible, these items be codified by Ordinance. Mr. Folland seconded the motion which, upon voice vote, was unanimously approved.

There being no further business, Mr. McGinnis made a motion to adjourn, which was seconded by Mr. Nelson and unanimously approved.

Respectfully submitted,

Max Slankard
Village Manager