

CALL TO ORDER

Motion to convene the Executive Session

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dakotah T. Norton, Trustee
SECONDER:	Holly Kim, Trustee
AYES:	Norton, Rekus, Russell, Abernathy, Kim, Semple

Mayor Lentz called the Executive Session to order at 9:31PM.

ATTENDANCE

Clerk Timmerman took the roll. It indicated the following:

Board Attendance

PRESENT: Trustees Abernathy, Kim, Norton, Rekus, Russell and Semple; Mayor Lentz

ABSENT: None

Village Attendance

PRESENT: Attorney Carr, Assistant Village Administrator Flynn, Village Administrator Lobaito, Attorney Marino

MUNDELEIN VS. GRAYSLAKE/SAIA LAWSUIT UPDATE

Administrator Lobaito stated that the pace of events is accelerating as the trial date approaches and that he therefore felt it was important to bring the Board up to speed.

Attorney Carr noted that the trial is set to begin on February 21. He then detailed the summary judgment motions filed by Grayslake and SAIA, which he described as atypical in a zoning case and merely an attempt to distract. He also explained the settlement offer from Grayslake and SAIA, which he described as unacceptable. He then provided information on Mundelein's response to both.

Attorney Carr next provided background on the SAIA project timeline, annexation, Mundelein's communication with Grayslake and Mundelein's exhaustive investigation before filing the lawsuit. He stated that, in his opinion, the purpose of the settlement offer was to frighten homeowner plaintiffs and drive a wedge between them and the Village of Mundelein.

Trustee Abernathy inquired about Administrator Lobaito's email and phone call which were mentioned in the motions of summary judgment. Attorney Marino provided an explanation, stating that the Grayslake and SAIA attorneys "cherry picked" a few pieces of Administrator Lobaito's deposition.

Trustee Abernathy asked if Mundelein had ever planned for a truck terminal on the site if it had been annexed into Mundelein and Attorney Marino replied negatively. Trustee Abernathy expressed concerns about the judge feeling that Mundelein filed the lawsuit due to "sour grapes" over losing the property to

Grayslake and Attorney Marino reassured the Board that the judge will read Mundelein's response and see that it absolutely was not "sour grapes." Attorney Carr interjected that Mundelein would have gained nothing by filing a lawsuit merely to "get back at" Grayslake. He stressed that the only motivation was to protect the residents adjoining the SAIA property. Administrator Lobaito reminded the Board of the 8-15% drop in their property values.

Mayor Lentz emphasized that SAIA is deliberately operating at 20% capacity to keep the effects less noticeable.

Attorney Carr stated that a meeting with homeowner plaintiffs is scheduled for January 25, after which he will communicate with Grayslake and SAIA's attorneys regarding the homeowner plaintiffs' decision about the settlement offer.

Attorney Marino assured the Board of his high degree of confidence that the summary judgment will be dismissed, citing Mundelein's decided advantage with expert witnesses and underlying facts. He further noted that Grayslake wants this to be a nuisance case but stressed that it is a zoning case. He added that they have ignored central issues, such as noise and traffic, because they don't have a good response, and are instead attempting to distract.

Trustee Russell asked if an appeal is likely should Mundelein win the lawsuit and Attorney Marino replied that there is a 100% certainty of an appeal. He also predicted that a stay to keep operating at 20% capacity with no exit south onto Midlothian will be granted. Mayor Lentz inquired about a timeframe for an appeal, and Attorneys Carr and Marino speculated that it would be at least a year, possibly 18 months.

Trustee Abernathy asked about attending the trial. Attorney Marino replied that attendance is allowed but noted that the courtroom is small (15-20 persons maximum). He cautioned that a few attendees is fine but more than that could cause the judge to assume intimidation.

Trustee Abernathy asked what could prevent the trial from starting on February 21 and Attorney Carr replied that it could be the judge's schedule or unresolved issues.

Mayor Lentz inquired about recovering legal costs if Mundelein wins the lawsuit and any succeeding appeal. Attorney Marino explained the "neighbor statute" which has been invoked and assured the Board that every attempt will be made to regain legal costs.

Trustee Russell asked if there is a possibility for any middle ground "Solomon Judgment" and Attorney Carr replied negatively, explaining that in zoning cases, it is either a yes or no decision. Attorney Marino added that the judge could declare the zoning invalid and delay the injunction for 3-6 months.

Mayor Lentz asked what is needed from the Board tonight and Attorney Marino replied that a consensus to decline the settlement offer is being sought. All trustees gave their support for declining the settlement offer and moving forward with the lawsuit. Trustee Norton inquired about confidentiality when dealing with questions from residents and Attorney Carr provided guidance.

ADJOURNMENT

Motion to adjourn the Executive Session

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dawn Abernathy, Trustee
SECONDER:	Holly Kim, Trustee
AYES:	Norton, Rekus, Russell, Abernathy, Kim, Semple

The Executive Session was adjourned at 10:33PM.

Katy Timmerman By Peter Vadopoulos, Deputy Clerk
Village Clerk