

CALL TO ORDER

Mayor Lentz called the Executive Session to order at 09:00 PM to discuss pending litigation pursuant to 5 ILCS 120, Section 2(c)(11), land acquisition or sale of property pursuant to 5 ILCS 120, Section 2(C)(5), personnel pursuant to 5 ILCS 120, Section 2(C)(1), and minutes pursuant to 5 ILCS 120, Section 2 (c)(21).

Motion to convene the Executive Session

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dawn Abernathy, Trustee
SECONDER:	Robin Meier, Trustee
AYES:	Abernathy, Meier, Semple, Black, Russell, Semple

ATTENDANCE

Clerk Cabachuela took the roll. It indicated the following:

Board Attendance

PRESENT: Trustees Abernathy, Black, Meier, Rekus, Russell, and Semple; Mayor Lentz

ABSENT: NONE

Village Attendance

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

PROPERTY ACQUISITION - MUNTZ PROPERTY, 516 SOUTH LAKE STREET

Village Administrator Lobaito gave an update on the Muntz Property. He stated that he heard back from the Muntz family and received a counteroffer of \$1.6M. The property is currently appraised at \$1.2M. As part of the Capital Plan for 2018, the Village has a \$20M to fund these projects. If the Board is interested in moving forward with the Muntz property, staff can submit a lower counteroffer to Muntz.

Trustee Abernathy expressed concern about the Village having a plan for a park, but not foreseeing that there was a possibility of not getting both sites to create the park. Trustee Black interjected and stated that the Board knew there was two sites that are part of the plan, so they need to be treated independently. Abernathy expressed disagreement with the purchase of both sites.

Trustee Black inquired about the status of leases for the tenants on the Muntz property. Lobaito stated he was unsure if they have an actual lease, but the Village will prepare to relocate tenants.

Mayor Lentz asked the Board to authorize Lobaito to negotiate a price for the property. Trustee Russell stated that he would be very impressed if Muntz accepted anything less than \$1.6M but gave his authorization to pursue a lower counteroffer. The consensus of most of the Board is to authorize Lobaito to move forward with negotiating a lower price.

LITIGATION UPDATE

Village Administrator Lobaito informed the Board that Village Attorney Charles Marino and Trial Attorney Jim Carr had an update on the pending suit regarding SAIA.

Carr stated that the trial court heard from many experts and property owners near SAIA. However, since analysis was made before SAIA was constructed, the court decided the experts and home owners had no basis. The court said that there should have been consideration of how the facility is being used and functioning in a way to reduce noise. The court focused mainly on how the facility is currently functioning, or short-term factors. Carr and Marino argued that there are long-term ordinance and noise violations. He informed that after the trial SAIA is free to function as they please. The currently have other locations where they have caused noise nuisances to home owners nearby. In Carr's opinion, the court missed the point and thought they focused more on short-term problems, rather than long-term. Carr informed that now the Board has an opportunity to take the case to the Supreme Court. He notified that this case would be a long shot in the Supreme Court, but he feels would be an intriguing case for them to take.

Marino informed Option 1 would be to accept the court's decision, but he suggested the Board does not take that route. He stated that SAIA has been very careful to avoid making any noise because they are on trial. However, when the trial is over they can disregard any carefulness to avoid any nuisance. Marino stated that they have been operating at a very small scale in comparison to their Burr Ridge location. The Mundelein site has the capacity to function at a similar pace. If the Board accepts the decision, there are no limitations to how they can operate. Option 2 would be to petition for a Leave to Appeal in the Illinois Supreme Court. Marino advised that they only take 20 cases, but feels the Board has a great case. There is currently no other case like this one and he feels that the Supreme Court would be intrigued to take it.

Trustee Black inquired how many judges are on the Supreme Court and how many would be interested in the case. Marino stated that there are 7 judges, and he feels that they would be compelled to take the case since this is a state-wide issue, not just a local issue. Marino feels the Supreme Court would want to take the case to set the precedent for other cases like it. He also advised that the not only does the Supreme Court need to accept the case, but the other challenge would be to win the case. The Board can also successfully petition for the Leave to Appeal but still lose the case. Marino stated that this would be at no cost to the Village, unless he and Carr are successful. If the Board agrees, this decision would need to be authorized in an open session. Marino and Carr have 35 days to appeal the decision. He asked for the Board's input on how to proceed.

Trustee Abernathy inquired when the Board would hear back if the Supreme Court would take the case. Marino informed the Court is not in session in the summer. He anticipates an answer some time in December.

Trustee Rekus asked for clarity on the cost. He inquired if there would only be a \$10K charge if the trial was favorable and questioned about court costs. Marino stated that the \$10K would cover the process and the \$20K would cover costs if the outcome was favorable.

Mayor Lentz advised that if the Board decides to move the trial to the Supreme Court that it is carefully stated to the public. Trustee Rekus stated that he has not heard a positive comment about the SAIA trial. Lobaito stated that the public may not have a positive comment to say about it, because they are not aware of the negative outcomes if the Village loses to SAIA.

The consensus of the Board is to move forward with taking the trial to Supreme Court.

ADJOURNMENT

Motion to adjourn the Executive Session

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Scott Black, Trustee
SECONDER:	Bill Rekus, Dawn Abernathy
AYES:	Rekus, Russell, Black, Abernathy, Meier, Semple, Lentz

The Executive Session was adjourned at 10:04PM.


Village Clerk