

**SWANSEA PUBLIC HEARING  
PLANNING & ZONING BOARD MINUTES  
November 22<sup>nd</sup>, 2016**

**CALL TO ORDER**

Planning & Zoning Board members gathered for a special meeting at the Swansea Government Center, 1444 Boul Ave., Swansea, IL. Chairman Haider called the meeting to order at 6:00 p.m.

Roll call was taken and answered by the following:

Dan Haider, Chairman	Present
Doris Rebenstorff	Present
Matt Koesterer	Present
Gene Kish	Present
Dan Von Alst	Absent
Justin Chapman	Present
Rob Anderson	Absent

Others Present:

Randy Tedesco, Bldg. & Zoning Director

Pat Kinsella

Scott Ritcher

**APPROVAL OF MINUTES**

A motion was made to approve minutes from October 27<sup>th</sup>, 2016 with no corrections. First by Mrs. Rebenstorff, seconded by Mr. Kish.

**NEW BUSINESS**

Mr. Tedesco informed the members on the concerns he has had in recent years with dissolving HOA's or associations that own certain detention ponds or out lots that are to be maintained by these dissolved associations in neighborhoods and business parks. Majority of the problems Mr. Tedesco is seeing is the maintenance of the privately owned out lots, and with maintaining the grass or cleaning out silted in detention areas. This is becoming a burden on many Village departments that have to maintain these nuisances. The Village of Swansea cannot recoup the money for the services that are provided to these subdivisions because a lien or citations that can be put on a parcel of land are usually deeded back to the county for unpaid taxes. Then the County squashes any liens on the property and auctions off the parcel of land. The Village Board of Trustees wants to have an SSA in place with any new possible developments. This will help going forward with potential associations dissolving in newly formed subdivisions. It was discussed to be approved at committee, I had inform the administrator that a Public Hearing needed to be done before any change of the text was made to Section 19-438.1

Mr. Pat Kinsella the HOA's president of Bristol Hills Subdivision had a list of questions that he discussed at length,

1. This code change discourages residential growth in Swansea, if new residents in certain parts of the Village have a tax that no one else in the Village has.
2. One might say that the level of service will be better in SSAs than areas that are not part of an SSA. If this is the case, then existing subdivisions will want to sign up for the new program. However, I am sure that most HOAs have the same issue we have at Bristol Hill in that in order to become part of the program we would need to have a  $\frac{3}{4}$  majority to change our governing documents. In our short history at Bristol Hill it seems like it would be impossible to get  $\frac{3}{4}$  of the people to cast a vote, let alone getting  $\frac{3}{4}$  of the people to cast a vote in favor of becoming part of the program. This would leave many existing subdivisions in a bad place, where there level of service from the Village diminishes. A lack of Village services can only lead to a decline of the community.

3. Is a new Village department to be formed as part of this code change to provide the services offered, or will an existing department be expanded?

4. The code change is ambiguous in terms of the amount of taxation. Will it be a set percentage for all SSAs. Can some SSAs tax be set higher than others depending on the amount of maintenance or requested improvements?

5. Most of the systems that are described as being part of this maintenance agreement are Village wide systems that overlap between new subdivisions, existing subdivisions, commercial developments, and even unincorporated areas. It does not seem appropriate to tax only a very small percentage of those that are part of the system to maintain the system.

6. The code change is unclear as to what is considered a new subdivision. Is it a subdivision that has not yet filed preliminary plats? Is it a subdivision that has not yet filed final plats? Where does the subdivision development need to fall in order to be grandfathered out of the new tax.

7. The term maintenance is not clearly defined. For instance, in Bristol Hill we have two large detention basins that are on common ground. The code change could be interpreted to mean that the Village is responsible for the maintenance of those detention basins. Therefore, at what point does the Village responsibility end because it could be interpreted to include lawn maintenance. And then to what level would the Village maintain the lawn areas associated with those basins.

8. The code change is unclear about what improvements could be requested and/or approved as part of the SSA. For instance in Bristol Hill, we have an out lot that is described in the Construction Plans as a Pocket Park. Currently that ground is just lawn area. If Bristol Hill signed up to be part of the SSA, could we request the Village to build and maintain a playground? A swimming pool? A neighborhood basketball or tennis court?

9. The code change is ambiguous in Section 3. The code official should include specific changes to the already approved and in force sections of the code, rather than issuing a blanket repeal of anything in conflict with the new section.

10. I would like to request that this proposed amendment to the ordinances be changed or consider not proceeding with it. A Village wide tax to all residential and commercial properties could be considered to help fund the growing need of the Village to maintain its aging infrastructure.

Mr. Tedesco answered each question prior to the meeting and those answers were discussed at length.

1. The residents in any special service area will only pay additional tax if they are receiving some additional service that other residents in the Village are not. Be clear however, that it is not the Village's intent, as an example, to cut the grass on common area lots in every subdivision in town. However, if a subdivision / HOA are having difficulty in getting all neighbors to participate in and fund shared costs such as these, the HOA and Village could agree for the Village to assume that responsibility. In this specific case we would contract with someone to maintain the common areas at a fixed price. We would pay them from a specific fund. That fund would be supported by the property taxes paid by the residents who benefit from the service provided – those who are supposed to maintain the common grounds in their subdivision.

The advantage of the property tax however, is that every property owner will have to pay it, as opposed to HOA dues where some might choose not to. The benefit to the Village is that the grass gets cut and our code enforcement staff does not need to police the issue or cite the HOA. The tool is also helpful where an HOA never formed or has faded away. The tool might in fact attract residents if the 'service' was a neighborhood playground, park, sidewalks, connection to the trail system, etc.

2. Subdivisions willing to fund specific services themselves will in fact guarantee they receive those services. So if Bristol Hill wants sidewalks on both sides of every street and is willing to pay for those through an SSA, then their subdivision may have that amenity while others do not. However, the intent of the state statutes is that the service(s) provided in an SSA be 'special' and not something typically provided throughout the Village. We would not use an SSA for street

sweeping for example. Self-imposed requirements in HOA's may be more restrictive than the statutes, which do not require 75% support for an SSA to be created. 51% of the owners and electors can object by written petition to the proposed creation of an SSA within 60 days of a public hearing and doing so effectively halts and prevents that creation. But that means a petition with signatures from 51% of the owners and electors ensures the creation will occur. This creation does not have to be HOA initiated. An individual can propose the creation, as can the unit of local government itself. One of the core reasons for this ordinance is to create the framework for a potential SSA at some point in the future when the subdivision is first created and all the property under to control of one entity. It could sit dormant for years, and might never be enacted and used.

3. There is no anticipated need for a 'new department' or for expansion of staffing. SSAs do not generate significant additional work. Most services provided in an SSA would be contracted out.

4. The tax levy rate for the SSA is determined by the cost of the service, thus specific to each SSA – so yes the rate will vary from one to the next.

Rate would depend upon the estimated annual cost of providing the service or paying off the bonds that financed the improvement, divided by the total equalized assessed value of the properties within the SSA. That rate is then applied to the value of each property in the SSA, so a more expensive home will pay more dollars towards the service than a lower valued home.

5. Again, the intent of the state statutes is that the service(s) provided in an SSA be 'special' and not Village wide 'systems'. The examples in the ordinance are not all inclusive or detailed. So for example, while street lighting might be provided in most residential areas in Swansea, a subdivision could chose through an SSA to fund special vintage street light poles and lamps, perhaps with seasonal banners or flags, only within their subdivision. This would not be a service Swansea would generally provide throughout the Village - only where property owners are willing to fund the added cost themselves.

6. A new subdivision is created with the filing and recording of a final plat. Once the ordinance is effective, the requirement must be met with the filing of each new final plat.

7. The code change should not be interpreted as the Village automatically assuming responsibility for maintenance of any common ground. It reads "The Village, in the Village's sole discretion, shall determine which specific public improvements or services it will provide to each such Special Service Area, and when it will commence doing so."

If the Village would agree to maintain a 'detention basin' that maintenance would extend to the entire outlot on which the basin sits. The Village would not agree to maintain any detention basin that was not common ground or an outlot – for example, Swansea would not maintain a detention basin that lies within a residential lot under private ownership.

8. Yes, as noted earlier, a neighborhood park / playground might be an option. As would a basketball or tennis court. However, a swimming pool probably would not, because of the ongoing operational costs, staffing and potential liabilities. Most subdivisions would probably not be willing to financially support those costs, which would undoubtedly be high enough that they need to be spread out over a larger population, and even then most pools need to be subsidized with other revenues.

9. This is a standard provision inserted by our attorney in all similar ordinances.

10. Again, the intent of the state statutes is to allow for specific service(s) to be provided in a specific geographic area and not Village wide. This ordinance will give the Village an option to do so for those services where it does not make sense to tax everyone for something that does not benefit the entire Village.

Mrs. Rebenstorff made a motion to approve the amendment of text as discussed with no modifications needed, Seconded by Mr. Koesterer.

Mr. Tedesco asked to clarify the vote and if a roll call vote could be done. Mr. Haider granted that request with a roll call vote. Mrs. Rebenstorff, Mr. Kish, Mr. Haider, and Mr. Koesterer, all are yes votes with Mr. Chapman voting no on the amendment of text.

**Adjournment** -With no further business needed to be discussed before the board, a motion was made to adjourn the meeting at 7:03 p.m. by Mrs. Rebenstorff, seconded by Mr. Chapman.

Minutes recorded by:

Matt Koesterer  
P&Z Board Member

**FINAL**