

MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, JUNE 14, 2010, AT THE VILLAGE HALL, 7760 QUINCY STREET, IN THE VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS.

1. CALL TO ORDER

The meeting was called to order at the hour of 7:30 p.m. by Village President Robert Napoli.

2. ROLL CALL

Those present at roll call were Trustees Dennis Baker, Terrence Kelly, Michael Mistele, Umberto Davi, Sandra O'Connor, Paul Schoenbeck and President Napoli. ABSENT: None. Also present were Deputy Clerk Mary Partyka, Village Attorney William Hennessy, Interim Village Administrator Megan Pierce, Director of Municipal Services Timothy Halik, Director of Finance Sue Stanish, Deputy Chief of Police Paul Oggerino and Administrative Intern Garrett Hummel.

A QUORUM WAS DECLARED

3. PLEDGE OF ALLEGIANCE

President Napoli asked everyone to join him in saying the Pledge of Allegiance.

4. OMNIBUS VOTE AGENDA

- a. Waive Reading of Minutes (APPROVE)
- b. Minutes - Regular Board Meeting - May 24, 2010 (APPROVE)
- c. Warrants - June 14, 2010 - \$428,598.19 (APPROVE)
- d. Monthly Financial Reports - May 31, 2010 - \$16,608,576.85 (ACCEPT)
- e. PLAN COMMISSION RECOMMENDATION - PROPOSED SIGN ORDINANCE TEXT AMENDMENTS - TITLE 9, SECTION 2: DEFINITIONS AND TITLE 9, SECTION 11: SIGNS (RECEIVE)

President Napoli asked if any Board member(s) wanted to remove any item(s) from the Omnibus Vote Agenda for discussion. Trustee O'Connor requested a response from Attorney Hennessy on several items under 4c regarding billing questions.

Trustee O'Connor said the first one was the 3 hours on May 5 in Williams versus Willowbrook. She asked Attorney Hennessy to disclose the nature of this litigation.

Attorney Hennessy responded that Trustee O'Connor was referring to an invoice for 3 hours in the case of Williams v. Willowbrook 2010MR268. This is the first challenge to the Village's Red Light Ordinance. Attorney Hennessy advised he went to the court house and filed the Village's answer in affirmative defenses with the Clerk and gave notice of that to the Plaintiff. That accounts largely for travel time to and from the courthouse. If it was possible to do it electronically, he would have.

Trustee O'Connor asked if every time we get a challenge this type of method would be observed.

Attorney Hennessy responded that it would have to be responded to there unless the Board decides to have these matters in the future handled by the Village Prosecutor, which was what he was going to discuss when the Deputy Chief makes his report on this matter. There has to be a more expeditious and cost effective way in defense of these things. He did not know how many prosecutions there have been but this is the only time apparently somebody has taken an appeal and, of course, the judge will make the determination but since the photography itself is prima fascia evidence you do not have to provide the foundation for it through witness or anything. It is pretty difficult for the defendant to rebut the charges.

Trustee Schoenbeck asked if they are found guilty is it the maximum we are going to get is the \$200.

Attorney Hennessy responded that is correct.

Trustee O'Connor said the other question she had was on May 30 there was an hour's worth of work related to the Executive Order, can you detail what that is related too.

Attorney Hennessy responded the President directed him to prepare for his use and the Board's consideration a draft of an Executive Order with regard to the duties and responsibilities of Village Staff, clarifying what those duties and responsibilities are. It was his understanding the President has not signed the Executive Order preferring to first discuss it with his colleagues on the Board.

Trustee O'Connor asked is that the Executive Order he can turn to by law and restricts our access to the Staff.

Attorney Hennessy advised the research on it is pretty clear under the Municipal Code. Presidents are no different than Mayors in fact the two words are interchangeable under the Code; they are both Chief Executive Officers of their respective municipalities and they are required to see that the laws are faithfully executed. All that means is enforced. Those laws in the context of the Village would be the ordinances of the Village as well as the laws of the State. President and Mayor have the same supervisory powers and duties; in sum the President has the power and obligation to assure that all administrative officers and employees are performing their duties as prescribed for them by the corporate authority.

President Napoli advised he brought the Executive Order with him and he will disseminate it at the end of the meeting. His plan was to let the Village Board read the Executive Order and to discuss it at the next meeting.

Trustee O'Connor asked about one more item on Page 6; it was for an hour's worth of work related to legal advice relating to a Tribune article with respect to appointments. She asked Attorney Hennessy to detail the nature of what legal advice he was giving related to the article.

Attorney Hennessy responded that on May 6 he met with President Napoli for the purposes of answering his questions based upon review of the law relative to his power of appointment of officers and appointment of vacancies on the Board of Trustees. His concern was that he be properly informed as to what the Statutes called for in certain circumstances under which he could act with Board approval and without Board approval.

Trustee O'Connor asked how that related to the Tribune article.

Attorney Hennessy responded he believed there was a Tribune article dealing with actions taken to disapprove appointments to various officers, positions here at the Village and that is the reference or tie in that precipitated his inquiry to me and to what the law was on the subject.

Trustee Schoenbeck noted that we held up the invoice last meeting for Attorney Hennessy's billing in the amount of \$5,700 or so. He thought that has not been paid yet, correct Director Stanish.

Director Stanish responded that is correct. It is on this Warrant for payment and it is at the very end. If Trustee

Schoenbeck would recall from the last Board meeting, the only reason we did not void the check and reissue the check was a year end accounting issue.

Trustee Schoenbeck asked if these will, for consultants and lawyers, appear at the end.

Director Stanish noted just the April bill because it is the end of our fiscal year.

The Board discussed the payment of Attorney Hennesy's bills. In addition, Trustee Schoenbeck requested he receive consultant and attorney bills, possibly electronically to review.

Director Stanish said we did that just for the purpose of accounting to keep our year end clean. April and May are both on these Warrants; if you approve these Warrants you are approving both.

President Napoli related he had a couple of discussions with some of the employees and they have been overburdened at times with respect to a lot of requests when they have their assigned work. The reason he is considering the Executive Order is because of the interference with the day to day operation. The employees here have their duties that are assigned and they know what to do. We have an excellent administrative staff in the three department heads and their associates and he found things were being interfered with that is why he is seriously considering the Executive Order.

President Napoli responded he will take it under advisement and he will pass the Executive Order out tonight and then we will discuss it at the next meeting.

MOTION: Made by Trustee Schoenbeck, seconded by Trustee Davi, to approve the Omnibus Vote Agenda as presented.

ROLL CALL VOTE: AYES: Trustees Baker, Kelly, Mistele, Davi, O'Connor and Schoenbeck; NAYS: None; ABSENT: None.

MOTION DECLARED CARRIED

NEW BUSINESS

5. VISITOR'S BUSINESS (Public comment is limited to three minutes per person on agenda items only)

None.

6. ORDINANCE - ANNUAL APPROPRIATION ORDINANCE, VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS, FOR THE FISCAL YEAR BEGINNING MAY 1, 2010 AND ENDING APRIL 30, 2011

Director Stanish informed the Board that before them this evening was the Annual Appropriation Ordinance. It is double what the management budget was that we approved this year. The Appropriation Ordinance will be filed with the County Clerk along with a copy of the Village's Administrative Budget. This gives the Village the legal authority to spend money moving forward for the fiscal year 2010-11.

MOTION: Made by Trustee Schoenbeck, seconded by Trustee Mistele, to pass Ordinance No. 10-0-11.

PREVIOUS ROLL CALL VOTE: AYES: Trustees Baker, Kelly, Mistele, Davi, O'Connor and Schoenbeck; NAYS: None; ABSENT: None.

MOTION DECLARED CARRIED

PRIOR BUSINESS

7. COMMITTEE REPORTS

Trustee Baker had no report.

Trustee Kelly had no report.

Trustee Mistele reported one item for information purposes. He advised we did discuss the installation of an air handling unit for the garage of this building, about \$6,100. The garage is currently heated with unit heaters; this air handling unit is intended to decrease the amount of humidity in that space. We are storing documents out there. The objective is to minimize if not eliminate mold. It was a \$6,100 item so we decided to get it done; this will be part of the consent agenda.

Trustee Davi had no report.

Trustee O'Connor had no report.

Trustee Schoenbeck had no report but noted that he had several closed session minutes from last meeting that the Clerk was looking for us to review.

President Napoli responded that he and the Village Clerk had a discussion and since he is not here tonight he asked me to state with respect to that the Clerk's office will prepare three or four of them and in Executive Session at the next meeting we will go through them. The Village Clerk will give a list to the Board members for the next meeting.

8. ATTORNEY'S REPORT

Village Attorney Hennessy had no report.

9. CLERK'S REPORT

Deputy Clerk Partyka had no report.

10. ADMINISTRATOR'S REPORT

Administrator Pierce had no report.

11. PRESIDENT'S REPORT

President Napoli indicated that Director Halik had several reports.

Director Halik reported that he sent a memo out to the Board on Wednesday, June 9, responding to a press article related to the DuPage Water Commission accounting error that was reported. He advised the Board at that time that we had received some reports regarding recent notification of an accounting underage and that he would advise the Board accordingly if and when we did receive that notice. We did in fact receive it the following day. We received a formal notification from the Water Commission on June 10 that they had discovered an accounting error. It dates back to fiscal year 2009 so the period on which they are reassessing the Village what we owe is May 1, 2008 through April 30, 2010. It was an accounting error that was brought about as a result of a usage reduction that the previous finance administrator for the Water Commission assessed. It was incorrectly assessed; it had a negative effect to all 25 Charter Customers. As a result they went back and recalculated what every town owes; the Village of Willowbrook owes them \$3,688.56. Given the relatively low amount, we would recommend that we pay the entire bill at this time, although the Commission is allowing towns that owe a larger amount up to twelve months to pay it back. Given the funds would come out of the Water Fund opposed to the General Fund, we would recommend we just pay it at this time. Unless the

Board has any questions or are opposed to that action, we will move forward and process the payment.

After a lengthy discussion, the Board agreed to pay the bill and possibly include a letter with the check to make sure the payment is paid in full.

President Napoli said we can try but he did not think we would have much success because the audit is ongoing and they will not commit to that.

Director Halik reported one other item. He wanted to call the Board's attention to a much anticipated Plan Commission recommendation that was on this evening's Consent Agenda. At the May Plan Commission meeting, the Plan Commission did unanimously vote to accept the recommended changes to the Village sign ordinance. The recommendation letter is in the Board's packet along with several documents, one of which is a Summary Report staff prepared that outlines the major changes within the draft amendments. Also, included is a clean copy of the Sign Code amendments. Lastly, is a matrix meant to be a cheat sheet advising you what the old code requirement was as opposed to the new. If Board members wanted a full sized copy of the matrix to please contact him. He suggested the Board preview the amendments over the next two weeks. Staff will begin drafting the ordinance and perhaps in two weeks we can bring it back to the Board for discussion and possible Board action on an amending ordinance.

President Napoli advised that this item will be on the agenda for June 28.

Deputy Chief Oggerino reported that the Village of Willowbrook had received its first appeal to the Adjudication Officer's ruling regarding the Red Light Camera Enforcement Program. On January 20, during the monthly Red Light Adjudication Hearing, the violator that we were talking about earlier in the meeting gave his argument against the Red Light citation he received on September 23, 2009 at southbound Route 83 and 63<sup>rd</sup> Street. The Adjudication Officer found he was liable for that violation. The violator was given instructions to appeal the hearing officer's decision by going to the DuPage County Circuit Clerk's office. The violator, who is representing himself, filed a petition on March 1, 2010 at the DuPage County Court House. The Village acknowledged receipt of the hearing date. A transcript of the January 20 proceedings was completed and certified with

the DuPage County Circuit Court on May 5. A hearing date has been scheduled for June 28, 2010, at the Court House in Wheaton.

The Board discussed the process with Attorney Hennessy of how a complaint for administrative review on Red Light citations are handled.

President Napoli informed the Board that he intended to have Sikich Human Resources come in but we are going to ask them to be at the first meeting of July because at the next Board meeting we have Labor Attorney Jacoby coming in. He will be at the next Board meeting to give us an update on June 28.

President Napoli also advised the Board that Mr. Marchesi from Harlem Irving met with him today and he would like to come and make a presentation to the Board at the next meeting, either he or one of his staff, regarding the possibility of the CVS coming in at the Town Center. They have some new information that they want to bring before the Board. President Napoli indicated to him that when they were in the last time, we were looking for a pro forma, which we had not received and he said he would have it to the Board in the next week and that he has a packet he would send it to the Board. President Napoli directed him to send it to Mr. Halik who in turn would send it out to the Board and it will be on the agenda for June 28.

Trustee Mistele asked why that was not going to the Plan Commission.

President Napoli responded that Mr. Marchesi wants to make a general presentation with respect to the economic conditions and what the likelihood would be if they would put retail in there instead of a restaurant.

Trustee Mistele said he is modifying a PUD then the normal procedure would be to go the Plan Commission. He should not have to come to this Board until after it has gone through the Plan Commission.

After a discussion, the Board recommended that Mr. Marchesi make his presentation to the Plan Commission at their next scheduled meeting.

Director Halik advised that we are still negotiating with Harlem Irving on the escrow agreement. The original amount was \$250,000; they have spent about \$75,000 on site work. So there is about \$175,000 remaining. We had negotiated the terms of the

escrow agreement, about the time we were finalizing the agreement and we were bringing it to the Board for authorization, Harlem Irving came to us and said that they have cash flow problems and cannot spend that money. Since that time there has been other negotiations with Harlem Irving on possible alternatives to satisfy that condition of the original approving ordinance. He believed that in the near future we are going to probably detail some of those alternatives to the Board.

Director Halik shared some of the news that Staff had heard is that the owner of the bowling alley is actively pursuing the sale of the site for redevelopment. Our obvious concern is for the good of the community and that we require the developer to put \$175,000 into the façade so that if the business is sold, the building won't get torn down.

President Napoli informed the Board that Chief Shelton's father had passed away and the arrangements are tomorrow. The Board should have a note at your dais. He wished to extend our condolences and sympathies to his family, his mother and fellow siblings with respect to the passing of his father and our prayers will be with him and the arrangements are noted for tomorrow. He just wanted that to be part of the record.

12. EXECUTIVE SESSION

There was no need for an Executive Session.

13. ADJOURNMENT

MOTION: Made by Trustee O'Connor, seconded by Trustee Schoenbeck, to adjourn the regular meeting at the hour of 8:15 p.m.

PREVIOUS ROLL CALL VOTE: AYES: Trustees Baker, Kelly, Mistele, Davi, O'Connor and Schoenbeck; NAYS: None; ABSENT: None.

MOTION DECLARED CARRIED

PRESENTED, READ and APPROVED,

\_\_\_\_\_, 2010

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Village President

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Minutes transcribed by Mary Partyka/Debbie Hahn.