

MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, OCTOBER 12, 2009, 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, Paul Schoenbeck, Sandra O'Connor and President Napoli. ABSENT: Trustee Timothy McMahon. Also present were Village Clerk Leroy Hansen, Village Attorney William Hennessy, Chief of Police Edward Konstanty, Director of Municipal Services Timothy Halik, Director of Finance Sue Stanish, Deputy Chief Pat Foley, Planner Sara Hage, Superintendent of Parks & Recreation Walter Righton 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 - September 28, 2009 (APPROVE)
- c. Warrants - October 12, 2009 - \$163,693.30 (APPROVE)
- d. Monthly Financial Report - September 30, 2009 - \$14,704,638.14 (ACCEPT)
- e. APPLICATION FOR LICENSE TO HOLD A RAFFLE - The Trane Company - November 25, 2009 (APPROVE)
- f. PROCLAMATION - RECOGNIZING OCTOBER 23-31, 2009 AS RED RIBBON WEEK IN THE VILLAGE OF WILLOWBROOK (APPROVE)
- g. RESOLUTION NO. 09-R-51 - A RESOLUTION AUTHORIZING THE VILLAGE PRESIDENT AND VILLAGE CLERK TO ACCEPT A PROPOSAL FOR THE INSTALLATION OF A FENCE ENCLOSURE IN WHICH TO STORE SENSITIVE POLICE RECORDS - DURABILT FENCE (ADOPT)

President Napoli asked if any Board member(s) wanted any item(s) removed from the Omnibus Vote Agenda for discussion. No Board member wanted any item(s) removed from the Omnibus Vote Agenda.

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

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

MOTION DECLARED CARRIED

NEW BUSINESS

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

There was no visitors business.

6. ORDINANCE - AN ORDINANCE AMENDING TITLE 3, SECTION 3-12-5(B) OF THE VILLAGE CODE - LIQUOR CONTROL, CLASS B LICENSE

Director Halik advised the Board that the ordinance for consideration this evening would amend the Village Code to create an additional Class B liquor license to be issued to the Buffalo Wild Wings Restaurant to be located at 7111 South Kingery Highway. The required backgrounds were completed by the Police Department and returned with a favorable report. It is the recommendation that the Village Board approve the ordinance amending the Village Code to increase the number of Class B liquor licenses to twelve (12).

MOTION: Made by Trustee Mistele, seconded by Trustee Baker, to pass Ordinance No. 09-0-22.

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

MOTION DECLARED CARRIED

7. RESOLUTION - A RESOLUTION AUTHORIZING THE EXECUTION OF
A CERTAIN AGREEMENT - CENTERPOINT REALTY SERVICES
CORPORATION - WILLOWBROOK CORPORATE CENTER SUBDIVISION

Director Halik advised the Board that in March 1998 Centerpoint Realty filed an application to create a business park development known as the Willowbrook Corporate Center. The project was planned to be completed in two separate phases. In September 1998 and April 2000, the Village entered into other development agreements with Centerpoint related to the extension of 75th Street. In May 2003, the Village entered into yet another agreement with Centerpoint which served to codify the remaining obligations that were contained in all four of the agreements. As part of the 2003 agreement, the Village received a new letter of credit to secure the outstanding development items that were not completed at that time. As items were completed, the letter of credit was reduced accordingly. The last three remaining development items were to be constructed by the Village and then Centerpoint would reimburse us. The construction of the roadway was delayed due to poor soil. As a result, Centerpoint had to carry the development letter of credit during this enter time and they are very eager to close out this financial liability.

Two of the last three items include the construction of the 75th Street water main loop and the last 100 feet of roadway surface. These items have now been constructed and approved so Centerpoint was invoiced in the amount of \$97,535.55. The last remaining item is the installation of a future traffic control device located at the intersection of Madison Street and Willowbrook Centre Parkway. Due to current traffic counts it is not likely that this intersection will meet warrants to enable construction any time soon. The construction costs have now escalated. Therefore, the Village would seek grant money to complete this project at some time in the future once warrants were met. Centerpoint has agreed to contribute \$100,000 for the installation of this traffic signal; it would cover engineering design costs, which are not grant eligible, and our local share of the estimated cost of the signal as part of an STP grant application.

Director Halik informed the Board that the release agreement for consideration this evening was drafted by Centerpoint's attorney and reviewed and approved by the Village Attorney. The Agreement provides that within five days of execution, Centerpoint will forward payment to the Village for a total amount of \$197,585.55 in return for the release of the letter of credit and this will completely close out the project.

The Municipal Services Committee and Staff recommend the Agreement be approved.

MOTION: Made by Trustee Mistele, seconded by Trustee Baker, to adopt Resolution No. 09-R-52.

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

MOTION DECLARED CARRIED

8. DISCUSSION - BOUNDARY LINE AGREEMENTS WITH CLARENDON HILLS AND DARIEN

Planner Hage informed the Board that the Municipal Services Committee reviewed and discussed the Boundary Line Agreements before the Board this evening at their meeting of September 14, 2009 and authorized Staff to present them to the Board for consideration. Staff worked with the communities of Clarendon Hills and Darien to renew these Agreements that are set to expire at the end of this year. The consensus was that the current Boundary Lines and terms of the existing Agreements satisfy the needs of each of the communities and provide for logical future municipal boundaries and areas of municipal authority between our respective corporate limits. The renewing Boundary Line Agreements were prepared in substantially the same form and content as the expiring Agreements and reflect the same Boundary Lines. The Darien City Council has already authorized execution of the Agreement and Clarendon Hills will consider the Agreement at their October 19 meeting. The Village Attorney reviewed both Agreements.

MOTION: Made by Trustee Mistele, seconded by Trustee Baker, to accept the Municipal Services Committee and Staff recommendations to enter into the Agreements and direct the Village Attorney to prepare the authorizing ordinances.

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

MOTION DECLARED CARRIED

9. RESOLUTION - A RESOLUTION AUTHORIZING THE PRESIDENT AND VILLAGE CLERK TO ENTER INTO A CERTAIN AGREEMENT FOR EMPLOYMENT OF A PART-TIME VILLAGE ADMINISTRATOR

President Napoli noted that the Board received the Agreement with Sikich LLP with their packets and asked if they had any questions or comments.

Trustee Mistele strongly encouraged the Board to seek proposals from other agencies that provide the same service.

Trustee Kelly thought that the consensus of the Board was to proceed with this Agreement.

Trustee Schoenbeck wanted to make sure that the Board was not going against something that was originally outlined in the Village Ordinance with regard to the Village Administrator. He asked how we can do the contract for this position; he did not see that or read that in the Village Ordinance. Trustee Schoenbeck wanted to make sure that they were not going outside the appointment of an Administrator by the Board and he did not see any exceptions for that where you can go into a contract like this whether it be long or short term or even if the duties or powers that are described can fall within a contract. Trustee Schoenbeck asked if the Village was still protected under its ordinance with regard to a contract for the duties of an Administrator. Are there protections afforded to the Village and to its employees if we go into that contract within the scope of what that Administrator would do under contract for such things as HIPA laws, employee personnel files, etc. He wanted to make sure the Board was not violating an ordinance or that the Board did not have to do something first with the ordinance in order to do this.

Mr. Karrison from Sikich responded that could be included in the Agreement.

Village Attorney Hennessy responded that with respect to the questions raised by Trustee Schoenbeck, the Village does have broad statutory authority in that area of a contract to hire an Administrator. The Board has the broad authority of the contract in every municipality including the non-home rule of this Village and that is quite specific under the Illinois Municipal Code. As to the question of the specific ordinance provision that was referenced, when he looked at the position of the Administrator it is referred to as an appointee under the ordinance of the Village; however, nobody becomes an

Administrator in this Village in the absence of a contract. It was the opinion of Village Attorney Hennessy that the precipitating legal act is the execution of a contract for which the Board does have jurisdiction. As far as the scope of his authority, whether male, female or a fictional person, they are bound by the same restrictions that govern anybody in that position of employment here. The only real restrictions on contracting is has there been an appropriation; are you prepared to authorize the contract as the corporate authorities here tonight. The Board completely has the authority to proceed. If there perceives to be a technical incongruity he thought that as a legislative body they are possessed of the power to do that this evening. Mr. Hennessy did not see a problem at all.

Trustee Schoenbeck asked if the proposal they received is going to be the actual contract or do we have a contract that will be between us and Sikich.

Village Attorney Hennessy responded that is really for the Board to decide tonight and looking at the proposal right now it has already been signed by Sikich LLP. This would constitute an Agreement.

Trustee Schoenbeck noted there is nothing else outside the scope of this document (agreement) that has been reviewed for this service that we are going to get from them.

Village Attorney Hennessy thought the contract the Board had in their hands defines the relationship.

Trustee Schoenbeck expressed concern about items not in the contract such as personnel files and/or anything unique to the Village and he wanted to make sure that is protected. In other words, if their relationship with the Village leaves on good or bad note there is not going to be anything to be discussed about the Village of Willowbrook, its employees or anything that may or may not be proprietary to us outside the scope of the work they do for us. He noted he did not see that in the contract and it is a concern for him.

Village Attorney Hennessy responded the Board could address that by way of protocol or an addendum to the agreement.

Trustee Schoenbeck asked the Village Attorney to do that for the Board.

Trustee Schoenbeck shared another concern expressed by Trustee Mistele that when we have looked at a scope of work like this we have always tried to go out to bid to give the appearance to our constituents and the businesses in the community that we are giving more than one person the opportunity of looking at doing the work for the Village. He did not personally know if there are other firms that do this type of work but he did give some thought to the comments and thought it had some merit.

President Napoli responded that there were at least two occasions since he had been on the Board that they selected a specific corporation or individual to conduct business without going out to bid. (Greg Kuhn-strategic planning session)

Trustee O'Connor noted that the term of this contract is not defined and that may allay some of the fears talked about; there would be a 30 day termination clause in there.

President Napoli responded that this is a six month proposal and it says "the proposal beginning on October 19" so it would be no longer than six months and we have a thirty day termination clause.

Trustee O'Connor asked if at that point in time we could go back out if we are not satisfied for more proposals; it can be interim or it can be a longer term.

President Napoli noted that three months into the contract, we may decide we want a full time person and then begin a search at that time. We are having the temporary contract to assist with some of the administrative responsibilities and also do an overview of how we are operating.

Trustee Mistele thought that we are losing Sikich as our auditor and they have supported us in that manner for ten years.

Trustee Kelly asked that he did not understand page 3, under Work Plan, the section that reads "where applicable" "the materials required by the projects providing services by Sikich intending to bill the Village at cost." He did not understand let's say the consultant lives in St. Charles and is traveling to the Village, are we charged for travel time or not.

Ms. Pierce responded that the travel time incorporated in this contract is the same as it has been for your auditor agreement, there is travel time based on how long it takes to get here. If it is above a half-hour each way then there is a mileage we

built in. So estimating that fee, it is based on our travel here but then it is at a reduced fee rate from what our hourly fee agreement is. It is a different rate than when we are here providing services.

Trustee Baker asked if they were basing it on time or basing it on mileage.

Ms. Pierce responded it is based on time.

Mr. Karrison thought the question was of traditional billing over and above actual work done, hours worked here and premises worked there. Generally speaking, the additional travel time is a reduced fee set forth and probably approximates about half, so if you have four hours travel time total we would probably bill the Village for two hours. We can provide a letter or memo to clarify that for you.

Trustee Baker thought it would be good to have a letter clarifying that item.

Trustee Schoenbeck asked to that point if we could just get a flat rate. The scope of work is pretty well set and there are not going to be too many variables that are going outside of what is already in the contract. It would create another individual coming in. Do you know who these individuals are that would do this work, do you know where they live in relation to the village of Willowbrook and do you know approximately how many times they can come in. I think Trustee Kelly brings up a good point, can't we get a flat rate, can't we just incorporate it into the hourly rate.

Trustee O'Connor noted that if you ask this person to go to a conference on behalf of Willowbrook there has to be some ability for them to recover some of that time.

Trustee Schoenbeck commented it is just that the scope of work is that we know you are going to send x number of people out here that have an expertise in a certain part of this work, I would think with the size of this contract the least you want to worry about is if this person lives an hour away telling them that this is what you are going to make and they are going to judge their time accordingly.

Mr. Karrison responded that we will incorporate that thought into a letter to the Village so that it is very specific as to the concern you raised.

President Napoli stated that we have two things: a confidentiality agreement and a flat rate of some sort and a letter clarifying the top of page 3 (of the agreement).

Trustee Schoenbeck asked if the contract will be brought back to the Board or do we approve it tonight with the changes.

President Napoli responded that we can approve the contract with the changes tonight and then we would be ready to start next week with respect to this and just have the attorney review and approve everything.

Trustee Schoenbeck requested a copy of the contract with the changes.

MOTION: Made by Trustee Schoenbeck, seconded by Trustee Baker, to adopt Resolution No. 09-R-53 with the changes noted.

ROLL CALL VOTE: AYES: Trustees Baker, Kelly, Schoenbeck and O'Connor; NAYS: Trustee Mistele; ABSENT: Trustee McMahon.

MOTION DECLARED CARRIED

OLD BUSINESS

10. COMMITTEE REPORTS

Trustee Baker had no report.

Trustee Kelly had no report.

Trustee Mistele noted that a bid was received for the signage at the Public Works building for a cost of about \$4,000 and he encouraged this expenditure. President Napoli requested to see a rendering of the signage.

Trustee Schoenbeck had no report.

Trustee O'Connor had no report.

11. ATTORNEY'S REPORT

Village Attorney Hennessy had no report.

12. CLERK'S REPORT

Village Clerk Hansen had no report.

13. ADMINISTRATOR'S REPORT

Chief Konstanty had no report.

14. EXECUTIVE SESSION

MOTION: Made by Trustee Baker, seconded by Trustee Schoenbeck, to adjourn into Executive Session to discuss personnel and Union negotiations at the hour of 8:00 p.m.

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

MOTION DECLARED CARRIED

SEE APPROPRIATE EXECUTIVE SESSION MINUTES

PRESENTED, READ and APPROVED,

October 26, 2009

Robert A. Napoli
Village President

Minutes transcribed by Mary Partyka.