

MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON TUESDAY, MAY 26, 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, Timothy McMahon and President Napoli. ABSENT: None. Also present were Village Clerk Leroy Hansen, Village Attorney William Hennessy, Village Administrator Phil Modaff, Chief of Police Edward Konstanty, Director of Finance Sue Stanish, Director of Municipal Services Timothy Halik and Planner Sara Hage.

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 11, 2009 (APPROVE)
- c. Warrants - May 26, 2009 - \$150,876.02 (APPROVE)
- d. Monthly Financial Report - April 30, 2009 - \$16,946,757.39 (ACCEPT)
- e. MOTION TO APPROVE - PUBLIC WORKS FACILITY CONSTRUCTION CONTRACT: PAYOUT #8 - PARTIAL PAYMENT, FBG CONSTRUCTION CORPORATION - \$359,225.01 (APPROVE)
- f. RESOLUTION NO. 09-R-30 - A RESOLUTION FOR MAINTENANCE OF STREETS AND HIGHWAYS BY MUNICIPALITY UNDER THE ILLINOIS HIGHWAY CODE (ADOPT)

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

MOTION: Made by Trustee Mistele, seconded by Trustee Baker, to approve the Omnibus Vote Agenda.

ROLL CALL VOTE: AYES: Trustees Baker, Kelly, Mistele, Schoenbeck, O'Connor and McMahon; 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)

Phyllis Zimmer, 6446 Tennessee Avenue, commented with regard to Agenda Item No. 7, the Sunrise Assisted Living application. She felt that there were antiquated storm sewers in the northwest quadrant of Willowbrook where Sunrise is located and this causes storm water problems.

6. DELINQUENT WATER BILLS

Director Halik informed the Board there were two delinquent water bills in the amounts of \$126.08 and \$117.45, respectively, and requested authorization to proceed as per Village policy.

Trustee Schoenbeck suggested that instead of receiving a copy of every delinquent letter in the packet, the Board receive a spreadsheet including the name, address, the dollar amount, the number of times that account has been late, any fines or late fees assessed and the status of the Board meeting. The spreadsheet would be in this section of the Agenda as opposed to the redundancy of the letters.

President Napoli questioned the purpose of the spreadsheet.

Trustee Schoenbeck responded that he would be looking for more year-to-date information, which would change month to month. If a person becomes habitually late, we could question are we charging enough for our fines or should somebody put a deposit on their water account instead of being permitted to just pay in arrears.

President Napoli asked Director Halik if there is an ordinance that covers how we handle this.

Director Halik responded that the procedure is accurately outlined in the delinquent letter. There is a 10 percent

penalty if 45 days late then it moves to shut off. If the water is shut off, there is a \$70 reinstatement fee. Director Halik referred to a prior phone conversation with Trustee Schoenbeck whether our penalty sections in our ordinance are appropriate and whether some of the repeat offenders or even some of the new delinquent bills we are starting to see from financial institutions is something we need to be concerned with. In response to Trustee Schoenbeck's concerns, Director Halik indicated he had asked the Water Billing Clerk to perform a comprehensive survey of all the 38 towns in DuPage County.

President Napoli asked if this went to the Municipal Services Committee.

Director Halik responded the intent was to perform the survey and then bring it to the Municipal Services Committee. The survey should gauge where Willowbrook stands, whether we are in the middle, low or high end on fines, which he thought was the concern of Trustee Schoenbeck.

Trustee Schoenbeck felt it would go to the Committee at some point as we start seeing these delinquent bills on an ongoing basis. His main concern was not the homeowner but the commercial/industrial properties and the amounts of dollars that might be involved.

Director Halik thought the results of the survey would be very revealing as to whether we need to prompt changes in the Village's current penalty section in the Code.

7. DISCUSSION AND MOTION - PLAN COMMISSION RECOMMENDATION FOR THE ADOPTION OF FINDINGS AND APPROVAL OF A PETITION FOR REZONING TO THE R-5 DISTRICT, VARIATIONS, SPECIAL USE PERMITS FOR AN ASSISTED LIVING FACILITY AND A PUD, AND PRELIMINARY PLAT OF PUD APPROVAL - SUNRISE ASSISTED LIVING - 6300 AND 6318 CLARENDON HILLS ROAD

Planner Hage informed the Board that the item for discussion this evening is a petition submitted by Sunrise Assisted Living to allow for a twenty unit expansion of their current facility located at 6300 Clarendon Hills Road. In order to construct the addition, they would need several variations from the Zoning Ordinance. The adjacent parcel, 6318 Clarendon Hills Road, would be rezoned to the R-5 District and the Village would need to issue special use permits for an assisted living facility and a PUD for that parcel. Approval of the Preliminary Plat of PUD

would need to be granted for the entire site. The Plan Commission considered this petition at their May 6 meeting and voted unanimously to recommend the application's approval to the Village Board.

Planner Hage advised there are a number of variations identified in the Staff's report and in addition to those variations Sunrise had requested two more variations to allow the timeframe for applying for Final PUD plat approval be extended from one year to three years and to extend the period for variations from one year to three years. The Plan Commission also recommended the approval of these variations. Staff would ask the Board to impose a condition on these variations that would require the existing home on the property at 6318 Clarendon Hills Road to be demolished within 90 days of the approval of the final ordinance.

Director Halik informed the Board that the Village has been pursuing the demolition of the structure located on the parcel at 6318 Clarendon Hills Road for many years and would like to have this issue resolved prior to approving the ordinance.

President Napoli suggested that this item be deferred to a future meeting until the staff, property owner and Sunrise resolve the issue of the demolition of the structure.

Director Halik requested the Board's consideration of approving the application this evening and then having that discussion prior to the adoption of the ordinance, which would have to be approved before the project can move forward.

President Napoli asked if the Board approved the request tonight, if this was just preliminary.

Planner Hage responded that tonight the Board is just directing the Staff and Village Attorney to work together to prepare an ordinance which would physically and legally approve the applicant's preliminary applications. It would not become official until the Board approves the Ordinance.

President Napoli asked if Sunrise and Staff can continue to work on getting the building issue resolved. Director Halik responded yes. The approval tonight would give Attorney Hennessy the right to begin to draft the ordinance and the ordinance would have to come back to the Board at a subsequent meeting.

Trustee Schoenbeck suggested that the Staff work on a backup because if Sunrise had known this earlier on they could have made it a condition of the purchase. They are now in a situation where they cannot make it a condition of the purchase unless it becomes a gentlemen's agreement because Sunrise is already past that point. Trustee Schoenbeck felt that the Village should have a backup if that does not work for them, what would be alternatives to get this house down.

Trustee McMahon agreed with Trustee Schoenbeck and would recommend approval of the application minus the 90 day reference.

Trustee Mistele inquired if this structure is indeed a public hazard, do we have Sunrise's support to go after the owner.

President Napoli felt that it puts Sunrise in the middle; he thought it should be between the Village and the property owner because the property owner has control of that parcel. To move the application along, President Napoli suggested dropping the 90 days and letting the Attorney work with the Staff to talk to the property owner and then come back to the Board at another meeting.

Administrator Modaff noted that separate and apart from Sunrise's purchase of this property, if that property or any other property reached the point where we can take demolition action, we would do that. All the tools are available to the Village already. He did not know if the Staff and Attorney can work out any extraordinary arrangements to go after a property that is not to that point.

MOTION: Made by Trustee Schoenbeck, seconded by Trustee McMahon, to approve the Plan Commission recommendation for the adoption of findings and approval of a petition for rezoning to the R-5 District, variations, special use permits for an assisted living facility and a PUD, and Preliminary Plat of PUD approval for the Sunrise Assisted Living located at 6300 and 6318 Clarendon Hills Road and to direct the Village Attorney to prepare the necessary ordinance.

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

MOTION DECLARED CARRIED

8. ORDINANCE - AN ORDINANCE AMENDING THE VILLAGE CODE OF THE VILLAGE OF WILLOWBROOK - TITLE 8, CHAPTER 11 - REVISING SECTION 8-11-7 - ADMINISTRATIVE ADJUDICATION - NON-RESIDENTS

Chief Konstanty advised that at the meeting of August 11, 2008, the Village Board approved an ordinance as a requirement for the Automated Red Light Enforcement Program. The current language addresses the option of only non-Willowbrook residents having the ability to appeal their red light violations by mail. The proposed change in the language would allow anyone who wishes to appeal to submit documentary evidence no later than the hearing date.

MOTION: Made by Trustee McMahon, seconded by Trustee Baker, to pass Ordinance No. 09-0-12.

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

MOTION DECLARED CARRIED

9. RESOLUTION - A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE AND INDEMNIFICATION AGREEMENT - USE OF RANGE FACILITIES FOR THE VILLAGE OF LEMONT

Chief Konstanty informed the Board that the resolution before them this evening would allow the members of the Willowbrook Police Department to train at the Village of Lemont's outdoor rifle range. The Release and Indemnification Agreement would release the Village of Lemont from liability from any actions of the Willowbrook Police Department.

MOTION: Made by Trustee Mistele, seconded by Trustee McMahon, to adopt Resolution No. 09-R-31.

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

MOTION DECLARED CARRIED

10. ORDINANCE - ANNUAL APPROPRIATION ORDINANCE, VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS, FOR THE FISCAL YEAR BEGINNING MAY 1, 2009 AND ENDING APRIL 30, 2010

Director Stanish noted that the Annual Appropriation Ordinance for the fiscal year commencing on May 1, 2009 and ending April

30, 2010 is before the Board for their adoption. The Village is under the Appropriation Act and each year is required to adopt an appropriation ordinance within the first quarter of the fiscal year. The ordinance will give the Village the legal authority to spend money.

MOTION: Made by Trustee McMahon, seconded by Trustee Mistele, to pass Ordinance No. 09-0-13.

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

MOTION DECLARED CARRIED

President Napoli announced that the Board will discuss the following four (4) Agenda items in Executive Session and vote on them when they reconvene the regular meeting.

11. RESOLUTION - A RESOLUTION AUTHORIZING THE PRESIDENT AND VILLAGE CLERK TO ENTER INTO AN EMPLOYMENT AGREEMENT WITH THE VILLAGE OF WILLOWBROOK - PHILIP J. MODAFF (Clerk's Note: This item was discussed in Executive Session and voted on after the regular meeting reconvened)

MOTION: Made by Trustee Schoenbeck, seconded by Trustee Mistele, to adopt Resolution No. 09-R-32 as amended.

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

MOTION DECLARED CARRIED

12. RESOLUTION - A RESOLUTION AUTHORIZING THE PRESIDENT AND VILLAGE CLERK TO ENTER INTO AN EMPLOYMENT AGREEMENT WITH THE VILLAGE OF WILLOWBROOK - TIMOTHY HALIK (Clerk's Note: This item was discussed in Executive Session and voted on after the regular meeting reconvened)

MOTION: Made by Trustee Mistele, seconded by Trustee Schoenbeck, to adopt Resolution No. 09-R-33 as amended.

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

MOTION DECLARED CARRIED

13. RESOLUTION - A RESOLUTION AUTHORIZING THE PRESIDENT AND VILLAGE CLERK TO ENTER INTO AN EMPLOYMENT AGREEMENT WITH THE VILLAGE OF WILLOWBROOK - SUZANNE M. STANISH (Clerk's Note: This item was discussed in Executive Session and voted on after the regular meeting reconvened)

MOTION: Made by Trustee Mistele, seconded by Trustee McMahon, to adopt Resolution No. 09-R-34 as amended.

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

MOTION DECLARED CARRIED

14. RESOLUTION - A RESOLUTION AUTHORIZING THE PRESIDENT AND VILLAGE CLERK TO ENTER INTO AN EMPLOYMENT AGREEMENT WITH THE VILLAGE OF WILLOWBROOK - EDWARD J. KONSTANTY (Clerk's Note: This item was discussed in Executive Session and voted on after the regular meeting reconvened)

MOTION: Made by Trustee Baker, seconded by Trustee Mistele, to adopt Resolution No. 09-R-35 as amended.

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

MOTION DECLARED CARRIED

OLD BUSINESS

15. COMMITTEE REPORTS

Trustee McMahon had no report.

Trust O'Connor had no report.

Trustee Schoenbeck had no report.

Trustee Baker had no report.

Trustee Kelly had no report.

Trustee Mistele reported that he had taken a quick tour of the Public Works Garage and the structure appears to be closed to the weather. He noted the building is a little over 75 percent complete and should be completed close to its original completion date.

16. ATTORNEY'S REPORT

Village Attorney Hennessy had no report.

17. CLERK'S REPORT

Village Clerk Hansen had no report.

18. ADMINISTRATOR'S REPORT

Administrator Modaff had no report.

President Napoli informed the Board that on the dais this evening, each Board member received a Medal of Honor booklet the State of Illinois gave to eighteen officers, one of which was Willowbrook Officer Lauren Kaspar, for her rescue last year of the woman at Willow Pond. He and Chief Konstanty attended the great ceremony in Springfield.

In addition, President Napoli commended the Staff for the job they did with the fire situation at Lake Hinsdale Village especially with the rescue of the people there.

President Napoli reported that he had the opportunity to speak at the DuPage County Cadet Program, where nine people graduated with four from Willowbrook. It was very well done. He commended Commander John Barnacle and Secretary Debbie Hahn for their efforts with the program.

19. EXECUTIVE SESSION

MOTION: Made by Trustee O'Connor, seconded by Trustee Baker, to recess into Executive Session at the hour of 8:13 p.m. to discuss personnel and probable litigation.

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

MOTION DECLARED CARRIED

SEE APPROPRIATE EXECUTIVE SESSION MINUTES

The regular meeting was reconvened at the hour of 10:03 p.m.

All present as at Roll Call at the beginning of the regular meeting.

(Clerk's note: Agenda Items 11, 12, 13 and 14 were voted on at this time. See appropriate Agenda Item.)

20. ADJOURNMENT

MOTION: Made by Trustee Schoenbeck, seconded by Trustee McMahon, to adjourn the meeting at the hour of 10:06 p.m.

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

MOTION DECLARED CARRIED

PRESENTED, READ and APPROVED,

June 8, 2009

Robert A. Napoli
Village President

Minutes transcribed by Mary Partyka.