

MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, MAY 10, 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, Sandra O'Connor, Paul Schoenbeck and President Napoli. ABSENT: None. Also present were Village Clerk Leroy Hansen, Village Attorney William Hennessy, Interim Village Administrator Larry Maholland, Chief of Police Mark Shelton, Director of Municipal Services Timothy Halik, Director of Finance Sue Stanish, Superintendent of Parks and 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 - April 26, 2010 (APPROVE)
- c. Minutes - Executive Session - April 12, 2010 (APPROVE)
- d. Minutes - Executive Session - April 26, 2010 (APPROVE)
- e. Warrants - May 10, 2010 - \$131,363.32 (APPROVE)
- f. PROCLAMATION - NATIONAL PUBLIC WORKS WEEK, MAY 16-22, 2010 (APPROVE)
- g. MOTION TO APPROVE - PAYMENT FOR NORTHEAST MULTI REGIONAL MEMBERSHIP ASSESSMENT FEE FOR 2010/11 - \$2,610.00 (APPROVE)
- h. RESOLUTION NO. 10-R-23 - A RESOLUTION AUTHORIZING THE PRESIDENT AND VILLAGE CLERK TO ENTER INTO A CERTAIN AGREEMENT - LINDA S. PIECZYNSKI - VILLAGE ORDINANCE PROSECUTIONS (ADOPT)
- i. RESOLUTION NO. 10-R-24 - A RESOLUTION APPROVING A PLAT OF GRANT OF EASEMENT AND PLAT OF DEDICATION - 6502 CLARENDON HILLS ROAD (ADOPT)

- j. RESOLUTION NO. 10-R-25 - A RESOLUTION PROCLAIMING MAY 13, 2010 POLICE OFFICERS MEMORIAL DAY AND THE WEEK OF MAY 10-16, 2010 AS POLICE WEEK IN THE VILLAGE OF WILLOWBROOK (ADOPT)

President Napoli asked if any Board member(s) wanted to remove any item(s) from the Omnibus Vote Agenda for discussion.

President Napoli requested that Agenda Item No. 4c-Executive Session Minutes-April 12, 2010 be removed and Trustee O'Connor requested Item No. 4d-Executive Session-April 26, 2010 be removed. Trustee Schoenbeck requested Agenda Item No. 4e Warrants-Village Attorney Invoice.

MOTION: Made by Trustee Schoenbeck, seconded by Trustee Mistele, to approve the Omnibus Vote Agenda with the exception of Agenda Item Nos. 4c, 4d and 4e-Village Attorney Invoice.

ROLL CALL VOTE: AYES: Trustees Baker, Kelly, Mistele, Schoenbeck and O'Connor; 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. MOTION TO RECONSIDER MFT CONTRACT AWARD

MOTION: Made by Trustee Kelly, seconded by Trustee Baker, due to the facts that have come to the Board's attention, to rescind the MFT Contract Award to Crowley Sheppard Asphalt, Inc.

Trustee Schoenbeck noted that under Section 65 ILCS 5/3.1-42-50, he thought reconsideration has to occur at the next regularly scheduled meeting. He would like the Village Attorney to let us know if that is correct or not.

Attorney Hennessy responded that what occurs at the scheduled Board meeting if at all is a veto override. What occurs at this Board meeting is the opportunity for the Board to reconsider its previous act. There is no prohibition in the Statutes allowing the Board to reconsider this matter now.

Trustee Mistele advised that we came out of Committee supporting an award to Fiala as the apparent low bidder at about \$192,000. We have budgeted for this year \$200,000 to take care of this work. It came out that evening that both the President and Attorney had a relationship with Fiala. It was not defined whether it was Fiala Paving or Joe Fiala the individual. So we tabled the issue that night. We looked for alternatives from the Staff in terms of what we could do. The alternatives included awarding the contract to the second low bidder, award it to Fiala, reject and rebid the entire project. At the next Board meeting looking at these alternatives, it was suggested and he made the motion to award the second low bidder in order to remove any kind of potential conflict between the corporate authorities of Willowbrook and a potential contractor. We voted on that. A couple of days later, he was told that the President and Attorney were actually retained by Lamar Sign Company, who is a contractor that you supported in a zoning function for a Fiala project, whether that was Fiala Paving or Joe Fiala, the individual, that was never made clear. The Board passed it and then two days later, the President vetoed it. It was his understanding that in order to pass this we would need a super majority on this Board to override the veto. Do I have that correct?

Attorney Hennessy responded you need two thirds.

Trustee Mistele noted that would be 66%; 3 out of 5 does not do since that would only be 60%. Attorney Hennessy responded that is correct.

Trustee Schoenbeck expressed his concern on how this all occurred. He did not think the item passed in the last meeting because we needed a concurrent majority to pass the motion, which would be four people.

Attorney Hennessy responded that the majority of Trustees voted and that is what the Statute requires.

Trustee Schoenbeck understood that the following morning, a call was made to Crowley Sheppard, the second low bidder, to tell them they had won the award. Then at some point later the same day the Village received the letter from Fiala, who discussed his concerns about being reconsidered for this award.

President Napoli wanted the record to show that the letter was from the President and owner of Fiala Paving, it is not Mr. Fiala.

Trustee Schoenbeck noted that when he sent the letter, there was something released to the press that stated there was an issue of litigation. He did not see it in his copy. He asked that it be pointed out to him where it says there is some litigation in the letter if they did not get the award.

Trustee O'Connor also did not see in the letter where they threatened any litigation.

President Napoli thought they were setting themselves up to possible litigate because they did not get the award. He felt that is why they sent the letter.

Director Halik advised he did speak to a gentleman, John Pelton, who was very shocked that Fiala did not receive the award since they were the apparent low bidder. In his discussion with the President of the company, he was equally outraged. We then later received the letter that was in the Board packet and he referred to the second to last sentence of the letter that specifically states, "We would hope that we do not have to consider other options so that this project is awarded to the rightful low bidder, James Fiala Paving Company." Mr. Halik's inference from that statement was that one of their options would most likely be litigation.

Trustee Schoenbeck asked if they told Director Halik that or was he concluding that from the sentence.

Director Halik commented from their voiced outrage that they were not given this award as the rightful low bidder and in conjunction with that sentence led him to believe that one of the options they were considering was litigation.

Trustee Schoenbeck asked if they told Director Halik they were going to litigate.

Director Halik responded no.

Trustee Schoenbeck noted that went out in the press release and his concern is that because the property was sold back in March 2009 both the Village Attorney and Village President stated to us in April that they had some sort of relationship with this company. He thought there would have been some knowledge that the company was sold and either there was a conflict or there was no conflict but this is not something that occurred recently. He thought it was still good for the Village to go with the second lowest bidder.

President Napoli questioned why the company would have to go through the process again and charge the citizens \$17,000 of their tax money for something that is not a conflict.

Trustee Mistele commented that the bids were taken back in March and the President and Attorney relationship and work with these folks was done during April is what was shared with the Board. He thought this all smelled. He did not know what was going on, he has asked but the President will not share it and he wanted to stay out of it. He would prefer to see Willowbrook award to the second lowest bidder because he believed that we need to protect the assets of the Village.

President Napoli responded that was not the point. The point is that there is no smell here; the only smell is that you are going to charge the citizens \$17,000 more when there is no conflict. We said that night there was no conflict. Trustee Schoenbeck ran off with the meeting, no one could get a word in edgewise and you went along with it. You asked us no other questions. When I did talk to you the next day I told you there was no conflict. What we did was let the Board know that we had a relationship with the Lamar Sign Company. Now that it is proven there is no conflict, you are still going to charge the citizens \$17,000 when there has been, never was and is not a conflict.

Trustee O'Connor asked President Napoli why he recused himself from the vote.

President Napoli responded because he thought it was the proper thing to do.

Trustee Schoenbeck commented that he cannot control the meeting, he is not the President of the Village so if he felt that he controlled the meeting there was something wrong there. More importantly, if you recuse yourself twice, the Village Attorney during that time did not offer any legal advice to the Board at either one of those two meetings where this discussion came up.

President Napoli responded that Mr. Fiala was not our client; he never was our client. We worked for a sign company; that is who we did the work for. And when Trustee Schoenbeck made it such a big issue that is when he decided to remove himself so that there would be no question at all.

President Napoli asked what the Board's position on this is. There is a motion on the floor.

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

MOTION FAILED

7. RESOLUTION - A RESOLUTION AWARDING THE FISCAL YEAR 2010-11 MOTOR FUEL TAX ROADWAY MAINTENANCE PROGRAM CONTRACT TO JAMES D. FIALA PAVING COMPANY, INC. IN THE AMOUNT OF \$191,689.00

No action taken.

8. RECEIVE - PARKS AND RECREATION COMMISSION MEMORANDUM

Superintendent Righton introduced to the Board the Parks and Recreation Commission Chairman Richard Cobb.

Mr. Cobb commented that typically Parks Commissioners come to pitch specific projects to the Village Board. At the last few meetings of the Parks Commission, we discussed that we would like to show our support to the Board for some of things being done more in the form of a long term perspective. How do we get the Village to the point where we can effectively plan for the future where we can say, yes we need these projects, five years from now, ten years from now and there will be the money for it. What we have seen happening to the town over the last five or ten years is a situation where it has been more and more difficult to plan ahead. That is what the Parks Commission is about because nothing we do happens today or tomorrow, we are about what we need five or ten years from now. The Parks Commission wanted to put a letter into the Board saying we like the direction we are going in right now in terms of looking at everything and hope we can put into place a plan that makes it so what we are doing in the Parks Commission means something, so that we can have something good five and ten years from now.

Ms. Landsman expressed concern about the downslide; it is frustrating to sit on the Parks Commission and see movie nights taken away. Then I heard the movie night was reinstated but we did not know anything about it and that is frustrating. We have the wonderful concession stand now at Community Park. It seems like we are not moving forward, we are moving back. Both Mr. Cobb and I have been on the Parks Commission for over ten years. She came on the Parks Commission when her kids were young when she got frustrated not being able to get her them into programs of other park districts because we were non-residents. She

asked the Board to look to the future and plan possibly in building something for the kids in the future such as a recreation center. Even though things do not look good now, Commissioner Landsman wanted the Board to do something like a non-home rule tax.

President Napoli expressed his appreciation for the Parks Commissioners coming out and speaking to the Board. He thanked the members of the Parks Commission for all the work they have done.

9. DISCUSSION - THE POSITION OF VILLAGE ADMINISTRATOR

Administrator Maholland noted that it was his understanding from the last meeting there was some discussion of having a special meeting on three issues. He had sent out a memorandum regarding that along with some pages out of their report that addresses the Village Administrator issue. What we were trying to do is just talk about what would be the advantages of a fulltime Administrator and the advantages of a part-time Administrator without really recommending anything because we have our interest in that. He mentioned in the memo the difference in terms of salary or cost between one versus the other. It was his understanding that the Board just wanted to have a general discussion about that.

Trustee Mistele thought that we need to fill the Administrator's position. Even in the review for Sikich, there was no real interview, we just went right straight to Sikich. He felt what was lost was the day to day leadership, a community needs a manager. We have lost the conduit to other units of government. This is not only with our neighbors but at the county and state level in terms of some of the activities we have seen the past administrators get involved in on behalf of Willowbrook. From his perspective, there were a lot of reasons why it would be good to have a fulltime Administrator.

President Napoli advised that he is active on the legislative branch of the Mayors and Managers Caucus so he gets all the information and we have opposed a whole series of things regarding pensions, DuPage Water Commission and it is all in a state of flux.

President Napoli asked Director Stanish what the Village's surplus was this year.

Director Stanish responded about \$200,000.

President Napoli asked what the deficit is next year.

Director Stanish responded about \$400,000.

President Napoli noted that the last Administrator cost the Village in excess of \$200,000; how are we going to pay for that? That is one of the reasons we went to a consultant for six months and expected to reorganize certain things. We have the Sikich report and the portion that we have not gone through as yet. We need to finish that and then make a determination. President Napoli agreed with Trustee Mistele to a point but at the same time he did not see where we can spend \$200,000 for that individual where we can come up with some type of compromise or some other operation where we have a part-time consultant administrator come in once or twice a week and then cut down on the cost of what we are paying them. I think we projected \$100,000 cost with about \$90,000 savings.

Trustee O'Connor had an exception to the way President Napoli was calculating that because we are paying \$100,000 for sixteen hours a week of service versus \$200,000 for a 40 hour workweek for someone with twenty plus years of service versus what we are looking at now which is someone with five years of service earning \$110,000, who has no experience in public works and finance or the police department. She felt the Village was saving dollars but are not saving anything else beyond that for efficiency. It definitely did not make sense to the Board. She had issues with the accountability with the arrangement we have had for the last six months. She had no idea what these people are doing. There have not been any updates on reports. She felt the Board has not been kept in the loop.

President Napoli asked if Trustee O'Connor was talking about the reports, the evaluations.

Trustee O'Connor responded yes the reports and evaluations, the ones we paid \$100,000 for.

President Napoli responded which was probably a \$50,000 report and in addition, there was another circumstance that came up that took a lot of extra time.

Trustee O'Connor did not dispute that those were legitimate reasons. Her issue was that the Board was not getting information. We do not all get shared the same information. You may have been aware of why. She thought to satisfy both the

recommendation of Sikich as well as if we want to pursue an employee part-time person who was a more direct link to all of us as opposed to external. Get a highly skilled person, like Mr. Maholland with high accountability to all of us. Perhaps have somebody who can guide the staff.

Trustee Schoenbeck wanted to clarify what contract stands with Sikich. We have a contract by President Napoli on the October 19 and we have a contract that is signed by President Napoli on October 23. He would like to know what contract is the contract that is recognized by the Village with Sikich.

Administrator Maholland responded that he sent out the official contract, there was one contract originally and then the Board had sufficient requests to revise it.

President Napoli advised that was correct.

Trustee Schoenbeck noted that we had one contract signed before the Board approved the contract by the President?

Administrator Maholland thought the Board approved it and he was requested to make some changes.

President Napoli noted there were some requests to put some additional verbiage in the contract regarding travel costs and confidentiality.

Trustee Schoenbeck requested a copy of the appropriate meeting minutes where we made the additional changes so that he knows what contract is in place. Also, he thought at the last meeting we had discussed having a special meeting dedicated strictly to the Village Administrator position and the budget. We have not heard about that meeting yet.

Trustee Schoenbeck noted so when the consensus of the Board at the last meeting was to hold a special meeting or workshop for the position of Village Administrator and the budget, somebody decided that based on the consensus of the Board to do that, that we weren't going to do. I missed that memo or I missed that action. He requested a copy of that memo.

President Napoli noted the reason it has not been called is that staff is finishing up the survey for negotiations with the union.

President Napoli suggested setting up a special meeting for the next Monday night (May 17); he suggested beginning at 6:30 p.m. He will direct Deputy Clerk Partyka to make calls to the Board with regard to their availability.

10. DISCUSSION - FISCAL 2010/2011 BUDGET

This item was deferred to the special meeting.

PRIOR BUSINESS

11. COMMITTEE REPORTS

Trustee Baker had no report.

Trustee Kelly had no report.

Trustee Mistele had no report.

Trustee Schoenbeck had no report.

Trustee O'Connor reported that Recreation Supervisor George Scukanec requested shorter work hours but would like to still participate in the events that the Community really has enjoyed him being in. Mr. Righton was looking for approval to go out and look for a transition person that would take over Mr. Scukanec's office and administrator role responsibility and it would likely be at a lower cost than what is being paid to Mr. Scukanec today.

12. ATTORNEY'S REPORT

Village Attorney Hennessy had no report.

13. CLERK'S REPORT

Village Clerk Hansen once again brought up the need of a new sound system for the Council Chambers. Director Halik is working on obtaining a proposal for a new system.

14. ADMINISTRATOR'S REPORT

Administrator Maholland had no report.

15. PRESIDENT'S REPORT

President Napoli had no report.

16. EXECUTIVE SESSION

MOTION: Made by Trustee Baker, seconded by Trustee Kelly, to recess into Executive Session at the hour of 8:12 p.m. to discuss:

- Personnel - To discuss a proposed Retirement Agreement between the Village of Willowbrook and the Deputy Chief
- Collective Negotiating matters pursuant to Chapter 5 ILCS 120/2(c)2

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

MOTION DECLARED CARRIED

The Village Board reconvened the regular meeting at the hour of 8:49 p.m.

17. MOTION - TO AUTHORIZE THE PRESIDENT'S EXECUTION OF A RETIREMENT AGREEMENT BETWEEN THE VILLAGE OF WILLOWBROOK AND THE DEPUTY CHIEF

MOTION: Made by Trustee Mistele, seconded by Trustee Schoenbeck, to authorize the President's execution of a Retirement Agreement between the Village of Willowbrook and the Deputy Chief.

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

MOTION DECLARED CARRIED

18. ADJOURNMENT

MOTION: Made by Trustee Schoenbeck, seconded by Trustee Baker, to adjourn the regular meeting at the hour of 8:50 p.m.

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

MOTION DECLARED CARRIED

\*\*\*SEE APPROPRIATE EXECUTIVE SESSION MINUTES\*\*\*

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Village Board Minutes  
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PRESENTED, READ and APPROVED,

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

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Village President

Minutes transcribed by Mary Partyka.