

MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, AUGUST 23, 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 President Robert Napoli, Clerk Leroy Hansen, Trustees Dennis Baker, Terrence Kelly, Michael Mistele, Umberto Davi, and Paul Schoenbeck.

ABSENT: Trustee Sandra O'Connor.

Also present were Village Administrator Timothy Halik, Village Attorney William Hennessy, Director of Finance Sue Stanish, Chief of Police Mark Shelton, Deputy Chief of Police Paul Oggerino, Planning Consultant JoEllen Charlton, Executive Secretary Deborah Hahn, and 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 - August 9, 2010 (Approve)
- c. Warrants - August 23, 2010 - \$183,346.74 (Approve)
- d. Proclamation - Community Wellness

President Napoli requested a correction on the minutes of August 9, 2010. On page 8 (Attachment A) two items were missing from list. The list should include Verizon Wireless, and the Community Bank of Willowbrook.

Trustee Schoenbeck requested to be recused from Item 4c. There are some items on the warrants that Trustee Schoenbeck needs to recuse himself from voting on due to a perceived conflicts of interest. He read a prepared list of items to be removed however the list has not been submitted.

MOTION: Made by Trustee Davi, seconded by Trustee Baker to approve the Omnibus Vote Agenda with noted recusal on Item 4c by Trustee Schoenbeck.

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

MOTION DECLARED CARRIED

NEW BUSINESS

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

None.

6. DELINQUENT WATER BILLS

Administrator Halik reported to the Village Board that there is one (1) delinquent water bill in the amount of \$192.43, and requested and received permission to proceed as per Village policy.

7. FIRST QUARTER FINANCIAL REPORT - FISCAL YEAR 2011 (APPROVE)

Director Stanish discussed the General Fund Financial Report for the first quarter of fiscal year 2011.

Director Stanish noted that the format has a slightly different format as prior reports. Director Stanish highlighted some revenue areas:

- Revenues to exceed budget by \$44,000.00. Sales tax and utility tax are projected to come in as budgeted however the Red Light Camera fines will exceed the estimated budget.
- Income tax continues to under-perform. Currently, we are 10% below the budgeted amount. The Red Light Camera fines have helped to offset this decrease.

The Illinois Municipal League's opinion is that the state will continue to pay municipalities the income tax however the lag time (currently 4 months) will continue throughout the year.

Overall, revenues are projected to be over unless the state changes something that we are unaware of at this point, as long as things progress at the same rate.

As for operating expenses, we anticipate being below budget by approximately \$82,000. This is due to the numerous reductions in staffing, village attorney fees, labor attorney fees and Sikich consulting fees.

When the next Financial Report comes out in October, Director Stanish will be talking about where the village's fund balance ending up last year vs. where our fund balance will be at April 30, 2011 along with the number of operating days.

President Napoli has asked Chief Shelton to work with Director Stanish and prepare a report for the Board regarding the Red Light Camera fund analysis, showing the actual number of citations issues vs. the number of actual violations.

Trustee Schoenbeck asked that the report include the adjudication hearings and the costs related to these hearings. If the costs outweigh the number of citizens requesting and attending these hearings maybe the village should not have them every month.

Chief Shelton advised that the village has a two year contract with the adjudication judge and a monthly hearing is necessary due to the amount of people in attendance thus far.

8. ORDINANCE AMENDING THE VILLAGE CODE OF THE VILLAGE OF WILLOWBROOK TITLE 3, CHAPTER 13 - SOLICITORS (APPROVE)

Chief Shelton advised that due to numerous organizations requesting solicitation permits especially requesting certain roadways/intersections within the village, stricter guidelines needed to be address.

Chief Shelton highlighted some of the changes that are recommended:

- The organization must be registered with the village and sign the application that they received, understood and will abide by all the regulations set forth in the village code.
- Time - Monday through Saturday from 9:00 a.m. - 9:00 p.m. or dusk whichever comes first.

- Every person soliciting is required to provide a valid state identification card with a visible picture.
- The application must provide the name and address of every solicitor.
- No solicitation will be allowed within the village between November 1st through March 31st.
- A single organization is only permitted to solicit once a month for no more than two consecutive days.
- The permits will be issued on a 1st come 1st serve basis.
- The application must be submitted at least 15 days prior to solicitation date.
- All solicitors on the roadways/intersections must wear a highly visible safety vests that the organization provides.

President Napoli stated that with the recommended changes it will help improve the safety not only for the solicitors but for motorists as well.

MOTION: Made by Trustee Davi, seconded by Trustee Baker to approve Ordinance 10-0-18.

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

MOTION DECLARED CARRIED

Trustee Kelly requested consideration to amend at a later date the Ordinance so that not only statewide or national organizations can solicit but include locally (county-wide) known organizations.

Chief Shelton advised that the statewide and nationally known organization verbiage in the Ordinance mirrors surrounding communities Ordinances; however he will look into including locally known organizations.

Trustee Kelly also requested that these organizations provide a Certificate of Insurance making the village the common insured.

Chief Shelton advised that this is already covered in the Ordinance.

Trustee Schoenbeck agreed with Trustee Kelly to allow local organizations and the Certificate of Insurance. Trustee Schoenbeck inquired if the soliciting organization must be in good standings with the Secretary of State's office.

Chief Shelton advised that it's not the Secretary of State's Office but the Attorney General's office and it is stated in the Ordinance that the charitable organization must be on file in good standings with the Attorney General's Office and provide a copy of the letter.

9. RESOLUTION OF AN OBJECTION TO A REQUEST FOR A CONDITIONAL USE AND SITE PLAN FOR DEVELOPMENT - DUPAGE COUNTY (APPROVE)

Planner Charlton advised that state statutes provide municipalities to comment on county zoning cases that are within 1.5 miles within the municipality's boundaries. The village has routinely received this information and staff has reviewed and commented on these issues as appropriate. On August 2, 2010, notice from the County was received that plans for a religious organization were being considered at 91st Street and Route 83.

This facility is extremely large, holding 1500-2000 occupants with over 200 parking spaces. The village feels this is a very intense project and additional time is needed to review and evaluate this proposal. A continuance was granted to the village until August 30, 2010 to review the numerous documents.

The proposed Resolution objects to continue the planning process until the village has time to take it to our Zoning Board, get a recommendation from them and then present the recommendation to our Board.

At that time, staff would also present any objections that may need to be raised regarding this facility or any support for this project.

Trustee Davi asked if the Board approves this Resolution, does it carry any weight with the County. Planner Charlton stated it's ultimately the County Zoning Board's decision.

Trustee Mistele asked if any other surrounding community had any objections to this plan. Planner Charlton stated no.

Trustee Schoenbeck asked Trustee Mistele that since Timberlake does not wish to annex into Willowbrook, should the village incur any expenses to follow suit with this.

Trustee Mistele advised that the issues deal with drainage, traffic and density around this site and until he views the plans does not want to comment.

Trustee Davi advised that since staff has brought this issue to the Board's attention, minimally the Board should take a hard look at the issues and voice our public concerns about this project. There would be no cost to the Village in doing so.

MOTION: Made by Trustee Baker, seconded by Trustee Mistele to approve Resolution 10-R-33.

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

MOTION DECLARED CARRIED

10. DISCUSSION - ETSB INTERGOVERNMENTAL AGREEMENT FOR INTEROPERABLE PORTABLE RADIOS

Chief Shelton advised that the Emergency Telephone System Board (ETSB) for the past four years has looked at an interoperability project for portable radios using STARCOM21 which is a satellite radio through Motorola. This system is used by the State Police and other jurisdictions, so it is not a new system.

Using this system, the department has the capability of talking with 27 departments along with the State Police. A trial study was conducted using loner radios for officers to use throughout the village to see how capable they were, and it was very successful and he received positive feedback from the officers.

The ETSB has agreed to pay for one radio for each officer the department has. However, this would be done through a grant that the department did not participate in several years ago, so the ETSB has advised that the department would receive only 19 radios at no cost instead of 24, which is fine since the department will never have 24 radios in use at one time.

ETSB will also pay for 4 of the 5 year contract for service use at \$30 per hour per radio, with the department having to pay the 5th year. Motorola and STARCOM21 are working on a price that would not go above \$39.00 per month in that 5th year of the contract.

If in the 4 years, we decide not to continue with STARCOM21 and go back to our "legacy" radio system, we can do that at no cost to us.

The ETSB is looking for a letter of intent with no obligation to the village, to see how many departments will be joining STARCOM21.

After a discussion, the Board agreed to have the police department send a letter of intent.

MOTION: Made by Trustee Schoenbeck, seconded by Trustee Mistele to approve the police department to send a letter of intent to join STARCOM21.

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

MOTION DECLARED CARRIED

11. COMMITTEE REPORTS

Trustee Baker had no report.

Trustee Kelly had no report.

Trustee Mistele had no report.

Trustee Davi had no report.

Trustee O'Connor was absent. No report.

Trustee Schoenbeck had no report.

12. ADMINISTRATOR'S REPORT

Village Administrator Halik advised that the 50th Anniversary Committee continues to plan their third and final event for the 50th Anniversary celebration. It will be a holiday event and is tentatively scheduled for Saturday, December 4, 2010 at the Willowbrook Town Center. Details of the event are still to be worked out.

Trustee Baker advised that with the holiday season approaching, he would like to kick off the Support Our Troops collection in September. He has a group from Lake Hinsdale that has volunteered to assist with this project. There has not been a timeline set for sending the collection boxes. The group hopes to meet in the near future to discuss this matter.

13. CLERK'S REPORT

Clerk Hansen asked that all written statements that are read into the record by a Board member, be given to the Clerk before the statement is read or directly after the meeting is over.

President Napoli advised that all Board members are required to give the Clerk a copy prior to reading the statement to assist the Clerk's Office.

14. PRESIDENT'S REPORT

President Napoli had no report.

15. ATTORNEY'S REPORT

Attorney Hennessy read a prepared stated on four subjects (**See Attachment A**):

- Attorney's Advisory Opinion
- Letter from IRMA regarding Trustee Schoenbeck's attorney fees
- Disclosure of confidential information to a third party
- Red Light Photo lawsuit

16. EXECUTIVE SESSION

MOTION: Made by Trustee Baker, seconded by Trustee Davi to recess into Executive Session at the hour of 8:18 p.m. to discuss:

- COLLECTIVE NEGOTIATING MATTERS BETWEEN THE VILLAGE AND ITS EMPLOYEES AND THEIR REPRESENTATIVES PURSUANT TO CHAPTER 5 ILCS 120/1 (c)(2)
- CONSIDERATION OF PORTIONS OF EXECUTIVE SESSION MINUTES FOR THEIR POSSIBLE APPROVAL AND RELEASE PURSUANT TO CHAPTER 5 ILCS 120/2(c)(21)- June 28, July 12, July 26, 2010, and August 9, 2010

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

MOTION DECLARED CARRIED

SEE APPROPRIATE EXECUTIVE SESSION MINUTES

The Board reconvened into the Regular Session Meeting at the hour of 8:43 p.m.

MOTION: Made by Trustee Mistele, seconded by Trustee Kelly to approve the Executive Session minutes of June 28, July 12, July 26, and August 9, 2010.

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

MOTION DECLARED CARRIED

17. ADJOURNMENT

MOTION: Made by Trustee Mistele, seconded by Trustee Schoenbeck, to adjourn the regular meeting at the hour of 8:45 p.m.

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

MOTION DECLARED CARRIED

PRESENTED, READ and APPROVED,

_____, 2010

Village President

Minutes transcribed by Debbie Hahn.

ATTORNEY'S REPORT

Thank you Mr. President. I have 4 matters upon which to report this evening.

Firstly, you will have noticed the Attorney's Advisory Opinion set forth in the Agenda Packet as Item 12A. I suggest that, after you and your colleagues have had more time to digest this Advisory Opinion, the body calendar the same for a public discussion of the matters raised therein at its next regular meeting of September 13, 2010.

Secondly, you will also have noticed the August 12, 2010 letter to the attorneys for Trustee Schoenbeck from this Village's Risk Management Agency set forth in the Agenda Packet as Item 12B. This letter is, by its own terms, a response to legal bills submitted by the said attorneys for advice given relative to Trustee Schoenbeck's alleged violations of the Village's Code of Ethics. In pertinent part, this response letter specifies that ". . .there is no coverage available [under the Village's General Liability and Public Officials Liability Coverage] for the legal fees incurred by Mr. Schoenbeck". In further pertinent part, this response letter states that ". . . the legal costs incurred by Trustee Schoenbeck are not indemnified by IRMA [the Village's Intergovernmental Risk Management Agency] under the Village's liability coverage documents."

Prior to the Village's receipt of this response letter, I had advised both the Administrator and yourself of my opinion that any such legal bills were clearly not reimbursable under the Village's liability coverage. IRMA's letter confirms my earlier reading that our liability coverage clearly excludes reimbursement of such costs in this case.

As the time for Trustee Schoenbeck's possible appeal of IRMA's letter determination has not yet expired, I will continue to keep you abreast of any future developments in this regard.

Thirdly, I want to give you a further report on the status of the investigation you directed I undertake as to the identity of the person or persons responsible for disclosing Village confidential information to third parties in contravention of Section 1-12-3 of the Village Code of Ethics. Specifically, you directed that I investigate the identity of the person or persons who divulged confidential matters discussed in the executive sessions of this body to third parties; that I investigate as to the identity of those third parties; and, that I investigate as to the identity of the person or persons who made a complaint with a law enforcement agency respecting this body's alleged violation of the Open Meetings Act in consequence of confidential discussions held in specific executive sessions.

I have previously advised you that the said law enforcement agency had investigated the said complaint and determined that no further action on their part was warranted. Relative to the said complaint, I advised you that this Village had fully cooperated with the Agency's investigation of the same.

I also previously advised that the focus of our investigation had narrowed to those persons directly privy to those executive session discussions.

Tonight, I wish to further advise you of the following: In light of the very recent discovery of a hand written memorandum evidencing the writer's detailed knowledge of the specific confidential matters discussed in the executive sessions identified in the said Open Meetings Act complaint just referenced, the Village

now has in its possession documentary evidence establishing the specific identity of a third person to whom such confidential matters were disclosed by a person directly privy to those executive session discussions. In this latter regard, the said document names a sitting member of this body in reference to (a) that member's questioning the propriety of a closed session discussion of a particular matter, and (b) that member's complaint against the Village Attorney. Significantly, the said document bears the following heading: "Open Meeting Act Complaint→Closed Sessions". From internal and external evidence, it is clear that this document was written after March 8, 2010 and before March 12, 2010. A person very familiar with the document's handwriting has verified its authorship to me. Most significantly, this document specifies the exact date of the alleged violations of the Open Meetings Act that would later be specifically reiterated in the law enforcement agency's Open Meetings Act Complaint Letter. In short, this document clearly appears to be a memorandum outlining the Open Meeting Act Complaint that was later made to the agency.

As this investigation now moves towards a conclusion, I ask that the body continue to defer any and all questions regarding the same until the submission of the President's Report on the results of this investigation.

Finally, I want to report that today we filed the Village's Brief in opposition to the Plaintiff's Red Light Photo lawsuit. As I have earlier stated, once this matter is fully briefed, the court will entertain oral argument thereon. At present, such argument is scheduled for September 20, 2010.

Mr. President, this concludes my report.