

MINUTES OF THE REGULAR MEETING OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, SEPTEMBER 27, 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 6:30 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, and Umberto Davi.

ABSENT: Trustees Michael Mistele, Sandra O'Connor and Paul Schoenbeck.

Also present were Village Administrator Timothy Halik, Village Attorney William Hennessy, Chief of Police Mark Shelton, Deputy Chief of Police Paul Oggerino, 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 - September 13, 2010 (Approve)
- c. Warrants - September 27, 2010 - \$190,586.35 (Approve)
- d. Resolution - A Resolution Authorizing the Village President and Village Clerk to Accept a Proposal for the 2010 Fall Brush Collection Program - Kramer Tree Specialists, Inc. (ADOPT)
- e. FY 2011-12 Budget Schedule (APPROVE)

President Napoli asked the Board if there was any item to be removed from the Omnibus Vote Agenda.

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

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

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 advised the Board there are two outstanding water bills; one in the amount of \$153.48 and \$318.15. Staff requested and received permission to proceed as per Village policy.

7. DISCUSSION - ATTORNEY'S ADVISORY OPINION

Village Attorney Hennessy advised that the first question in his Advisory Opinion deals with who is allowed to send matters to the Ethics Officer (i.e.- the alleged conflict of interest by a member of this Board). This matter is being considered to be sent to the Ethics Officer for his guidance, advice and determination. A question was raised of "Who possesses the power to forward matters to the Ethics Officer". Attorney Hennessy advised that his findings are the President can, the Board of Trustees can, and collectively the President and the Board of Trustees can.

The Ethics Officer gives his advisory opinion and findings of either dismissing the allegations or recommending findings of facts. Once the findings come back from the Ethics Officer, it is then up to the President and Board of Trustees to make that determination on how to proceed. In addition, the person charged should be allowed to present his argument or evidence to these charges during a hearing process.

The Board discussed the three options which were:

- a) The Village President refers matters involving either himself or a Trustee to the Ethics Officer.
- b) The Board of Trustees refers matters involving the President or a Trustee; or

- c) The Corporate Authority (The President and Board of Trustees) have the collective power, by majority vote, to refer matters to the Ethics Officer for his guidance and interpretation.

The Board discussed each option in detail.

MOTION: Made by Trustee Davi, seconded by Trustee Baker to accept paragraphs a, b, and c as the policy to refer to the Ethics Officer.

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

MOTION DECLARED CARRIED

President Napoli went to Item III of the Attorney's Advisory Opinion and asked the Predicate Question - "What preliminary test of evidence, if any, ought the President, the Trustees and the Corporate Authorities require such alleging information to pass before referring this conflict of interest matter to the Ethics Officer for his advisory findings of fact and conclusions of law?"

Attorney Hennessy advised that the Board ought not engage in any discussion on probable cause but simply refer the matter that you feel should be sent to the Ethics Officer on probable cause and sufficiency of evidence for his advisory guidance of facts and finding.

After a lengthy discussion, a question was asked if the Board should accept anonymous complaints. Attorney Hennessy advised that they should be accepted at what they're worth. They are not worth as much as a confidential informant; however you cannot base a formal allegation on an anonymous complainant alone.

Trustee Baker would like to see follow-up done on anonymous complaints perhaps by having a one on one conversation with the anonymous complainant before basing any fact on the complaint.

MOTION: Made by Trustee Davi, seconded by Trustee Kelly to forward matters to the Ethics Officer before pre-deciding the matter as a Board.

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

MOTION DECLARED CARRIED

Attorney Hennessy advised the next portion of this report is Item IV - The Investigative and Evidentiary Tests. He advised that it is his recommendation that the referring authority give the Ethics Officer the following direction as part of the investigation:

- a. That the Ethics Officer is to conduct his own independent investigation of the referred matter;
- b. That the Ethics Officer is to then make and transmit a finding to the Corporate Authorities on the penultimate question of whether he has or has not found probable cause to reasonably believe that a violation of the Village Code of Ethics has occurred; and
- c. That, only in the event the Ethics Officer does find the existence of such probable cause, he is then to make and transmit his findings of fact and conclusions of law to the Corporate Authorities on the ultimate question of whether he believes the evidence is or is not sufficient to support a decision that the accused has violated the Village's Code of Ethics.

The Board discussed this and felt that the outline is appropriate and fit for the purpose for the Board.

MOTION: Made by Trustee Baker, seconded by Trustee Davi to adopt the Investigative and Evidentiary tests for the Ethics Officer.

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

MOTION DECLARED CARRIED

President Napoli moved on to Item V. of the Attorney's Advisory Opinion - The Decision-Making Role of the Corporate Authority. Attorney Hennessy advised that this is a restatement of what the Code states which is "...the Corporate Authority can accept or reject the advisory findings of fact and conclusions of law by the Ethic Officer, excepting only his no probable cause finding, which he believes should be accepted by the Corporate Authority and result in their dismissal of the said matter".

Trustee Kelly felt that if the Ethics Officer makes a decision, the Board should abide by that decision. Trustees Baker and Davi agreed.

Trustee Davi asked that this item and Item VI - Discipline, be combined because it deals basically with the same thing.

MOTION: Made by Trustee Kelly, seconded by Trustee Baker to accept the Attorney's Opinion on the Decision-Making Role of the Corporate Authority and Discipline, be left up to the Ethics Officer.

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

MOTION DECLARED CARRIED

8. COMMITTEE REPORTS

Trustee Baker had no report.

Trustee Kelly had no report.

Trustee Davi had no report.

9. ATTORNEY'S REPORT

Attorney Hennessy advised that he attended the Illinois Municipal League Conference last week and Attorney Mahoney argued the Red Light Camera litigation before Judge Bonnie Wheaton. The judgment was entered in favor of the Village of Willowbrook. It is final appealable within 30 days.

10. CLERK'S REPORT

No Report.

11. ADMINISTRATOR'S REPORT

Administrator Halik informed the Board that the FY 2011-12 Budget Schedule will commence next month. The second meeting in October Staff will provide the annual budget preview.

12. PRESIDENT'S REPORT

President Napoli informed the Board that the 6:30 p.m. start time was more convenient for most of the Board members and staff, and in the future would like to start the meetings at 6:30 p.m. instead of 7:30 p.m. All Board members in attendance agreed.

There will be no Executive Session Meeting tonight because the Union has an issue they are still going over.

Annexation paperwork has been submitted by Mr. Stanton within the Soper Triangle (Madison, Frontage and Brush Hill area), which are 4 parcels of land in unincorporated Willowbrook.

Trustee Schoenbeck has received a hand delivered copy of the questions that were asked upon him. President Napoli will defer this item to the next meeting and will ask the Board to refer this matter to the Ethics Officer for his review.

13. EXECUTIVE SESSION

No Executive Session at this time.

14. ADJOURNMENT

MOTION: Made by Trustee Davi, seconded by Trustee Baker, to adjourn the regular meeting at the hour of 7:37 p.m.

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

MOTION DECLARED CARRIED

PRESENTED, READ and APPROVED,

_____, 2010

Village President

Minutes transcribed by Debbie Hahn.