

MINUTES OF THE REGULAR MEETING OF THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, AUGUST 27, 2012 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 Mayor Robert Napoli.

2. ROLL CALL

Those present at roll call were Mayor Robert Napoli, Clerk Leroy Hansen, Trustees Dennis Baker, Terrence Kelly, Michael Mistele, Sue Berglund, Umberto Davi, and Frank Trilla.

ABSENT: None

Also present were Village Administrator Timothy Halik, Village Attorney William Hennessy, Chief Mark Shelton, Deputy Chief Paul Oggerino, Management Analyst Garrett Hummel, and Deputy Clerk Cindy Stuchl.

A QUORUM WAS DECLARED

3. PLEDGE OF ALLEGIANCE

Mayor Napoli asked Trustee Kelly to lead everyone in saying the Pledge of Allegiance.

4. VISITORS' BUSINESS

None presented.

5. OMNIBUS VOTE AGENDA

- a. Waive Reading of Minutes (APPROVE)
- b. Minutes - Regular Board Meeting - August 13, 2012 (APPROVE)
- c. Minutes - Executive Session Meeting - July 23, 2012 (APPROVE)
- d. Warrants - \$304,839.64 (APPROVE)
- e. Resolution - A Resolution Approving a Plat of Easement - 610 67th Place - No. 12-R-38 (ADOPT)
- f. Resolution - A Resolution Proclaiming "School's Open Safety Week" - No. 12-R-39 (ADOPT)
- g. Motion - A Motion to Approve Expenditure from Federal Asset Drug Seizure Funds - Extended Warranty for the Police Canine Vehicle (APPROVE)

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

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

ROLL CALL VOTE: AYES: Trustees Baker, Berglund, Davi, Kelly, Mistele, and Trilla. NAYS: None. ABSENT: None.

MOTION DECLARED CARRIED

NEW BUSINESS

6. PRESENTATION - INDIAN PRAIRIE PUBLIC LIBRARY

Ms. Crystal Megaridis, President of the Indian Prairie Public Library Board, made a presentation of the Indian Prairie Public Library and what services that the library provides.

7. PRESENTATION - RECOGNITION AWARD - TRUSTEE DENNIS BAKER

Mayor Napoli, along with Trustee Kelly, presented Trustee Baker with a plaque on behalf of the soldiers of the First Sustainment Brigade, First Infantry Division, United States Army, honoring Trustee Baker for his generous support privately given to the troops of the Brigade.

8. PROCLAMATION - A PROCLAMATION RECOGNIZING 20 YEARS OF SERVICE - CYNTHIA A. STUHL

Mayor Napoli presented Deputy Clerk Cynthia Stuhl with a Proclamation and gift recognizing her 20 years of service with the Village of Willowbrook. Mayor Napoli, the Board of Trustees and Staff thanked Deputy Clerk Stuhl for her service.

MOTION: Made by Trustee Baker and seconded by Trustee Mistele to accept the Proclamation.

PREVIOUS ROLL CALL VOTE: AYES: Trustees Baker, Berglund, Davi, Kelly, Mistele, and Trilla. NAYS: None. ABSENT: None.

MOTION DECLARED CARRIED

9. DELINQUENT WATER BILLS

Administrator Halik stated that at this time there were no delinquent water bills.

10. RESOLUTION - A RESOLUTION ACKNOWLEDGING AND CERTIFYING COMPLIANCE WITH ALL TERMS, CONDITIONS AND REGULATIONS PERTAINING TO THE APPLICATION FOR GRANT FUNDING UNDER THE ILLINOIS ENERGY NOW GRANT PROGRAM - VILLAGE HALL LIGHTING REPLACEMENT PROJECT

Management Analyst Hummel advised that while researching possible grant lighting opportunities to supplement the Village's LED Street Light Retrofit project, Staff met with a representative from Twin Supplies, Ltd who stated that there is also funding available for indoor lighting projects and volunteered to conduct an inventory of all the lighting within the Village Hall. The representative stated that the Village could be eligible for approximately \$28,000.00 in funding. Sample replacement light bulbs that were shown are a 14 watt bulb; the current bulbs in the Council Chamber are 120 watt bulbs. The state grant gives the incentive to replace the bulbs with a more energy efficient bulb.

This resolution would approve the pursuit of the grant funds and not to decide on a specific lighting option at this time. Several options are available for either replacing all fixtures with new ones, retrofitting the existing fixtures, or a combination. Depending on the option chosen, there will be some expense to the Village.

MOTION: Made by Trustee Berglund and seconded by Trustee Davi to adopt Resolution No. 12-R-40 as presented.

PREVIOUS ROLL CALL VOTE: AYES: Trustees Baker, Berglund, Davi, Kelly, Mistele, and Trilla. NAYS: None. ABSENT: None.

MOTION DECLARED CARRIED

11. RESOLUTION - A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO EXECUTE A CERTAIN RELEASE AND INDEMNIFICATION AGREEMENT WITH THE VILLAGE OF LEMONT FOR USE OF FIREARM RANGE FACILITIES

Chief Shelton stated that the Chief of Police from Lemont has requested that all departments utilizing the Lemont Outdoor Firing Range to sign an indemnification agreement.

MOTION: Made by Trustee Mistele and seconded by Trustee Baker to adopt Resolution No. 12-R-41 as presented.

PREVIOUS ROLL CALL VOTE: AYES: Trustees Baker, Berglund, Davi, Kelly, Mistele, and Trilla. NAYS: None. ABSENT: None.

MOTION DECLARED CARRIED

12. ORDINANCE - AN ORDINANCE AMENDING CHAPTER 12 OF THE WILLOWBROOK MUNICIPAL CODE ENTITLED "CODE OF ETHICS" BY ADDING PROVISIONS THERETO CREATING A VILLAGE ETHICS COMMISSION, ENUMERATING ITS POWERS AND DUTIES AND ESTABLISHING PROCEDURES FOR ITS HEARING AND DETMINATION OF ETHICS COMPLAINTS

Attorney Hennessy stated that during the last discussion reference this Ethics ordinance; there was a consensus to accept the proposition that the Village's Ethics Commission should be composed of the corporate authorities. At the time, there was extensive discussion on the composition of the subcommittee of the Commission that might be appointed for the purpose of conducting any investigations and returning with findings with respect to the legal issue of probable cause and sufficiency of evidence and so on. At the time, the discussion was can a mechanism be found to put a non-trustee appointee on the Commission. There was a suggestion that it might be best to have an alternative framework where the Body can, at the time should it ever arise, elect from a subcommittee option compose of all trustees or an advisory committee option composed of two trustees and one non-trustee. There was discussion on the identity, qualifications, background, experience, and expertise of the non-trustee appointee. Attorney Hennessy thought about this and is suggesting that the Board should make effective use of the Ethics Officer who is already in place and appoint him since he is not a trustee to the third position on the Advisory Committee.

Attorney Hennessy advised that this is something that the Board has not heard before and it may or may not satisfy the concerns that some have had about the third appointee. In substance, this is what is proposed in the ordinance that is before the Board currently for discussion. Attorney Hennessy thought that this would be something that the Board should at least hear rather than wait.

Mayor Napoli opened this item for discussion.

Trustee Mistele questioned who is the Village's Ethics Officer. Mayor Napoli stated that Robert Novelle was appointed and

approved about three years ago by the Board as the Village's Ethics Officer.

Trustee Mistele stated that he disagrees with the Mayor being appointed as the Chairperson of this commission. What was talked about was that when an incident arose, two of the members of the Corporate Authorities, plus the third party (either a professional from the community or looking to IRMA for resources) would be selected to review any particular situation. The third party of the Ethics Review Committee would be a specialist in the area of concern. Trustee Mistele stated that the idea of putting the Village Mayor as the Chairperson of the Ethics Commission is like putting a fox in a hen house.

Mayor Napoli stated that what is being talked about is putting the Corporate Authorities that would be the Chair. The first thing for the subcommittee would be to select three trustees; the Mayor would select one and the Trustees would select the other two.

Attorney Hennessy stated that in either mode, if the Body were to approve a situation that needed the subcommittee; that would be composed entirely of three trustees. Because the Mayor is the only figure in this municipality that has the power of appointment, the Mayor would appoint the Chairperson of the subcommittee. The same is true of the Advisory Committee. Attorney Hennessy stated that he has difficulty with the idea of putting somebody who is not an officer of the Village on any committee. It just so happens that the Ethics Officer is already an officer of this Village and the Ethics Ordinance already specifies that he can occupy more than one post. But in both instances, the selection of the chairperson of the Subcommittee or Advisory Committee is of course the Mayor of the Village.

Trustee Mistele stated that he totally disagrees with this and still believes that it is a fox in the hen house situation. Trustee Mistele stated that there has been so many things done without Board input over these couple of years that he would be afraid to put the Mayor in charge of this.

Mayor Napoli questioned what has not been brought before Board. Trustee Mistele stated that Gorski and Good were dismissed. They served this community for 40 years without this Board's input. Mr. Hennessy was retained as our Village's attorney without Board input. Mayor Napoli stated that these issues were brought to the Board and the Board reviewed the material and they voted to make the changes. It was not a unilateral decision by any individual Board member or president. Trustee

Mistele stated that there was no vote to change the Village attorney. Mayor Napoli questioned if Trustee Mistele recalls if the Board always votes on who the Village Attorney is. Mayor Napoli stated that there was a vote on that and if he would like to have the minutes brought to your attention, the Mayor will ask the Deputy Clerk to look this up. Trustee Mistele stated he would like that. Mayor Napoli stated that it is in the minutes with respect that we asked for one law firm to step down and we asked Mr. Hennessy to come in. Trustee Mistele said that Mayor Napoli did that as an individual; not with this Board's input. Mayor Napoli stated that he brought it to the Board for their discussion. If anybody else was here at the time, they can speak up.

Trustee Baker stated that if Trustee Mistele will be receiving a copy of these minutes then every trustee should get a copy of the minutes. Mayor Napoli stated they will.

Trustee Mistele questioned the ethics of the Village Attorney moving in, at the time, to the President's office. Trustee Mistele stated that he was provided a draft of a letter, no letterhead and unsigned, saying that what you two guys are doing is totally fine. Trustee Mistele stated that the Mayor also took on all the legal records for the Village of Willowbrook; they were pulled from Gorski and Good. Trustee Mistele questioned the kind of liability that the Village had there and never received a resolution to that. The point of all of this is that Trustee Mistele is questioning some of the ethics that we are doing here, yet we are going to make the Mayor the chairman of the Ethics Committee. Trustee Mistele stated that he has a real problem with that. Mayor Napoli stated that Trustee Mistele has a real problem with him. The last two items were brought to his attention by a former trustee who was guilty of six charges brought against him by the Ethics Committee and proven to this Board. He then decided not to run again. As for getting those records, Mayor Napoli stated that he did request those records. The records will not be left anywhere where that law firm is not a representative. They are in the hands of the Village Attorney; as they were with the prior Village Attorney that we had. Mayor Napoli asked Attorney Hennessy if he is in charge of the records. Attorney Hennessy stated that he was.

Trustee Mistele stated that the point is that he has a real problem with the Mayor appointing the chairman of the Ethics Committee. Mayor Napoli again stated that Trustee Mistele's real problem is with him. Trustee Mistele stated that he is not personalizing it. Trustee Mistele stated that he has brought this issue up in the past during open session and it has not made the minutes.

Trustee Mistele again stated that making the Mayor the chair of the Ethics Committee is putting a fox in the hen house. Mayor Napoli stated that he resents that remark.

Trustee Trilla stated that in his opinion, none of the trustees should be on the Ethics Committee. This has been his opinion from the beginning. Trustee Trilla stated that he hates that the Board is wasting time and the Attorney's time. He stated that we are paying a person to be the Ethics person, why don't we just go to them, let them make the decisions, and the Board has to live with it. Why are we reinventing a wheel that doesn't need to be reinvented?

Trustee Kelly stated that he was surprised to see this ordinance on the agenda as an action item because we have been focusing on the procedural aspects of the ordinance. There are other things should be discussed before the Board adopts an ethics ordinance. That observation aside, the fatal flaw of the current ordinance is that you can have the Ethics Officer conduct an investigation, but there is no way to compel the person who is the subject of the investigation to cooperate. What happened in the most recent instance was that there was delay after delay and that was never satisfactorily resolved. When discussion first began on this topic, one of the issues that was known to be dealt with was the need to come up with a process that when a complaint was filed, it got moved along at a reasonable pace. Trustee Kelly stated that the procedural aspects of what we have is good. With respect to Trustee Mistele's issue with regards to the Mayor, the Mayor would appoint the trustees that are slated to serve on the committee or he would appoint the advisory committee members, but the Mayor is not allowed to appoint himself. The Mayor is operating in an administrative fashion. The Mayor would appoint three trustees who would have no conflict of interest with the individual or topic that is being looked at. Trustee Kelly stated that in his mind, the reason why we were looking at having an outside party who is not a trustee available for appoint was for if only two trustees can be found with no conflicts then we would have the ability for this third party complete the three-person advisory committee.

Trustee Kelly stated that he has no problem with the Mayor being the person to appoint the chairman and the members of the committee. He has enough trust and faith in the other trustees to figure that they will do the right thing.

Trustee Kelly stated that he has a couple of issues with the way that he ordinance has been drafted. We have an Ethics Officer. This officer should be the person who conducts an investigation of a complaint. Trustee Kelly stated that he does not want to

put himself in a position of investigating or directing an investigation of a fellow trustee. We need someone who brings a different point of view. Even though there are no trustees who hang around together, but he stated that everyone appreciates one another, have a professional relationship, and so there should be someone who is independent and at least knows the topic of the ethics violation to be able to come in and conduct the investigation. The Ethics Officer should then bring to the three-person panel a recommendation for the panel to make the initial determination that there is probable cause for going forward or not. This way if the complaint is groundless, it can be disposed of quickly. If the complaint is more serious, it will go on to a more formal hearing.

Trustee Kelly stated that one of the other flaws that he sees in the current draft is there is no time for the investigation to take place. The time frames are pretty tight. In order to meet the turnaround time, the Ethics Officer would have to work full time. Trustee Kelly stated that the times should be fine-tuned to accommodate this, while also accommodating the need to get these issues taken care of expeditiously. It becomes a difficult process to be in the middle of one of these problems and not seeing the end of the road.

Trustee Kelly again stated that he does not have a problem with the Mayor appointing the position that precludes the Mayor from participating in the committees. Trustee Kelly stated that the procedural part of the ordinance will need to be fine-tuned to accommodate how to use the current Ethics Officer, how do we provide for the investigation to move promptly, and to make an initial determination of probably cause or not. Trustee Kelly stated that the procedural part of this ordinance is pretty close to where it needs to be.

Trustee Kelly again thought that this should still be a discussion item to bring up issues that had been brought up during the previous Board discussion.

Mayor Napoli questioned if Trustee Kelly was recommending that we should have the Ethics Officer conduct the investigation. Trustee Kelly stated yes.

Mayor Napoli stated that 6-8 years ago, President Pretzer had an opening for the Ethics Officer. Mayor Napoli stated that he had recommended at that time that you need someone who really knows the law. Mayor Napoli stated that at all times with respect to the way that the law is and the way that things are today, we need an attorney as the Ethics Officer. Mayor Napoli also stated that there should be one or two attorneys on the Ethics

commissions. Trustee Kelly stated that he does not agree with that. He stated that one of the observations from the last time an ethics issue was brought up, there nothing special about taking a look at an ethical question that anybody with some experience and knowledge can't deal with. If a legal question comes up and no attorney is serving on that commission or panel, we can go to the Village attorney.

Mayor Napoli stated that Trustee Kelly does it for a profession and he is trying to deal with the reality of trying to find people.

Trustee Baker stated that because of what has occurred in the past and the non-closure of the issue, what power does the subcommittee or advisory board to subpoena or require an individual to cooperate with an investigation. Trustee Kelly stated that last time there was no avenue to enforce anything. The new ordinance would have to have set up some very specific deadlines where if someone does not respond by the deadline and not granted an extension for good reason, then we move on to the next step. This was the fatal flaw last time. There was no way to compel cooperation. There was no way at a point in time to say that this has gone on long enough and will move forward. The new process will set up that things need to be done within a given time.

Attorney Hennessy stated that he wanted to clarify to the Board that no matter what we do, any appointments to the subcommittee or the advisory committee, requires the advice and consent of the Ethics Commission. It is not unilateral that the Mayor appoints whoever he wants to the committees.

Attorney Hennessy stated that Trustee Kelly's suggestion about having the Ethics Officer conduct an investigation prior to bringing the issue to one of the committees is a valuable suggestion. Attorney Hennessy stated that he suggests whoever the non-Board member appointee is to the Advisory Committee should meet certain qualifications and he will try to write them in such a way so that it leaves the door open for a citizen who does not have to possess a law degree to provide an unbiased approach and ability to understand what is presented to him.

Trustee Berglund stated that she feels that it is very important that we should involve the citizens more than one person because they don't trust investigations conducted by state legislature or Congress and here we will be doing the very same thing. Mayor Napoli stated that he will take that under advisement.

Further discussion on this item will be deferred to a future meeting.

PRIOR BUSINESS

13. COMMITTEE REPORTS

Trustee Baker had no report.

Trustee Kelly had no report.

Trustee Mistele stated that he wanted to bring up for discussion the Community Newsletter that is going out in print. He stated that this newsletter was initiated without Board input. We as a Board were told that a sponsor was found to print and mail the newsletter out. Here again, it's the Mayor's picture and your letter on the front cover of the publication and he feels that this is electioneering and using Village resources to put this out. On the subject matter of this particular letter, he does not know why he went there with it. The employees have earned the retirements and the terms of the retirements are established by contract and are defined by State statute. We in Willowbrook have no real say on how these retirement benefits are determined nor how they are dispersed. Some of the statements in this article are entirely misleading to the constituency here in Willowbrook. Specifically, you (the Mayor) equate the annual cost of the retirement benefits being dispersed at this time against the operating budget of Willowbrook and those two never meet. On the level of staff morale, what do you think this does to the morale of our employees? How do you think it makes them feel when you use the word "extravagant" and "excessive" as far as their retirement benefits go? Mayor Napoli stated that there is never any intent to deprecate any employee on either the Administrative or the Public Safety side. All this is, is information that is what the Village is required to do by the State of Illinois and what the Village is required to do by the pensions for the employees that are here. The citizens never get any information. All they hear is that the salaries are high, the salaries are low, they get benefits, they don't get benefits. There is no body that ever tells the citizens the nitty gritty of what the individual salaries are, what the individual pensions are that we are going to be paying people. All of this is public information. Any citizen can walk into the Village any day and put in a FOIA request and ask for it. All that the Mayor has done is make sure that the citizens get the information and they can do what they want with it. The citizens now know that the Village did not grant these things. These all came from the State legislature. Mayor Napoli stated

that at some point in time the Village will be like a lot of other towns that have reached its limits and will not be able to service the citizens. Trustee Mistele stated that the state numbers that are being used in the article cover a 10-year period. The state numbers reflect losses that are in state accounts that have still trying to accrue investment value that was lost. Trustee Mistele stated that the pensions are on schedule to be at the State mandated funded amounts due to the management of this Board. Trustee Mistele stated that our pension funds are very securely invested. Trustee Mistele again stated that he feels this newsletter is electioneering and believes that taxpayers' money is being used to do it. Mayor Napoli stated that the Village has a high rating from the Illinois Policy Institute for transparency. Administrator Halik stated that the initial rating was 34. Management Analyst Hummel stated that the current rating is 88. Trustee Mistele stated this is a different subject. Mayor Napoli stated it is. It's because of what is being done as a Board to be transparent.

Trustee Berglund had no report.

Trustee Davi had no report.

Trustee Trilla had no report.

14. ATTORNEY'S REPORT

Attorney Hennessy had no report.

15. CLERK'S REPORT

Clerk Hansen had no report.

16. ADMINISTRATOR'S REPORT

Administrator Halik had no report.

17. MAYOR'S REPORT

Mayor Napoli had no report.

18. EXECUTIVE SESSION

- a. REVIEW 2012 MINUTES - Pursuant to 5 ILCS 120/2(c)(21) Regarding the Minutes of Executive Session Meetings That Were Lawfully Closed Under the Open Meetings Act

ADJOURN INTO EXECUTIVE SESSION

MOTION: Made by Trustee Baker and seconded by Trustee Kelly to adjourn into Executive Session at the hour of 7:41 p.m.

PREVIOUS ROLL CALL VOTE: AYES: Trustees Baker, Berglund, Davi, Kelly, Mistele, and Trilla. NAYS: None. ABSENT: None.

MOTION DECLARED CARRIED

19. ADJOURNMENT

MOTION: Made by Trustee Baker and seconded by Trustee Kelly, to adjourn the Executive Session at the hour of 7:45 p.m.

PREVIOUS ROLL CALL VOTE: AYES: Trustees Baker, Berglund, Davi, Kelly, Mistele, and Trilla. NAYS: None. ABSENT: None.

MOTION DECLARED CARRIED

PRESENTED, READ and APPROVED.

September 10, 2012.

Mayor

Minutes transcribed by Deputy Clerk Cindy Stuchl.