

MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, MAY 8, 2023 AT 5:30 P.M. AT THE COMMUNITY RESOURCE CENTER, 825 MIDWAY DRIVE, WILLOWBROOK, DUPAGE COUNTY, ILLINOIS.

THE VILLAGE WILL BE OFFERING A ZOOM WEBINAR FOR THE MEETING TO ALLOW MEMBERS OF THE PUBLIC TO ATTEND BY VIDEO OR AUDIO IF DESIRED. IF A MEMBER IS USING ZOOM, PLEASE EITHER USE YOUR PHONE OR COMPUTER, NOT BOTH.

1. CALL TO ORDER

The meeting was called to order at 5:30 p.m. by Mayor Frank Trilla.

2. ROLL CALL

Those physically present at roll call were Village Clerk Deborah Hahn, Mayor Frank Trilla, Trustees Mark Astrella, Sue Berglund, Umberto Davi, Michael Mistele, Gayle Neal, Gregory Ruffolo, Village Attorney Michael Durkin, Village Administrator Sean Halloran, Assistant to the Village Administrator Alex Arteaga, Director of Community Development Michael Krol, Director of Parks and Recreation Dustin Kleefisch, Chief Robert Schaller, Deputy Chief Lauren Kaspar, Deputy Chief Benjamin Kadolph, Deputy Clerk Christine Mardegan and Public Works Foreman AJ Passero.

Absent: Chief Financial Officer Lora Flori.

A QUORUM WAS DECLARED

3. PLEDGE OF ALLEGIANCE

Mayor Trilla asked Trustee Astrella to lead everyone in saying the pledge of allegiance.

4. VISITOR'S BUSINESS

None present on zoom and no written comments were received.

Present at the meeting was Ms. Gail Fransen of 5905 Western Avenue who wished to address the Board regarding zoning issues with her property and the public easement. As background information she provided the following details:

In 2004, the water line was extended around the property. On the north side of the property, along 59<sup>th</sup> Street, the installation included storm sewer, and water main, drain and sidewalk.

In 2006, a new survey of the property was conducted in anticipation of a possible subdivision, at which time it was discovered that the water improvements were installed on the owner's property rather than in the public right-of-way.

At that time, it was brought to the attention of the current Village Administrator. Ms. Fransen is unsure as to how this happened. Not only is the water line on her property, but also the sidewalk and fire hydrant. The owner wanted the sidewalk removed. The Village Administrator spoke with legal counsel who suggested she accept a 10-foot easement which would contain the waterline, sidewalk, and hydrant. She accepted the easement process.

Last year, after speaking with an engineer, in preparation for the subdivision of the property, it was pointed out that, because the sidewalk was on her property, she would be subject to premises liability. Ms. Fransen approached Director Krol, who spoke with the Village's legal counsel, who confirmed the liability exists.

Ms. Fransen is concerned primarily with two issues, 1) the prospect of a lawsuit and the financial consequences thereof, and 2) a reduction in the value of her property due to the inherent liability factor. She sent a letter to Director Krol asking that the easement be removed, the sidewalk be moved onto the public right-of-way, and to look into whether the fire hydrant was also a liability to the homeowner.

Although she would like these issues resolved in 2023, she understands the length of the process might delay it until 2024. If this is the case, she would like a written statement of the Village's intention to remove the sidewalk, and thereby the liability, that she might be able to present to any prospective buyer.

The Mayor thanked Ms. Fransen and called on Director Krol to address the Board on this issue.

5. DISCUSSION - DISCUSSION REGARDING THE EXISTING PUBLIC SIDEWALK, EXISTING FIRE HYDRANT, EXISTING EASEMENT APPROVED IN 2006, AND A PROPOSED RESUBDIVISION TURNING A SINGLE-FAMILY RESIDENTIAL LOT INTO TWO SINGLE-FAMILY RESIDENTIAL LOTS AT 5905 WESTERN AVENUE.

Director Krol indicated that he had been in touch with Ms. Fransen for some time. He agreed with her history of the contact between her and the Village. He displayed a plat of survey for the property at 5905 Western Avenue which identified the easement area.

In the December 2022 letter received from Ms. Fransen, the three actions requested were:

1. Void the easement the Village Board granted in 2006.
2. Remove the sidewalk within the property boundary and easement and relocating the public sidewalk entirely onto the Village right-of-way.
3. Relocate the existing fire hydrant to the Village right-of-way.

Also included in the letter was a request for the Village attorney to draft a letter waiving the homeowner's liability in the event of an incident.

Administrator Halloran added brief comments. Staff are recommending leaving the agreement in place as originally designed. Tri-State [responsible fire protection district] indicates there is no compromise to the fire hydrant in its present location.

Village Attorney Durkin added that it is difficult to answer hypothetical legal question but noted that there is no letter or statement that the Village attorney could provide that would guarantee that no one would file a lawsuit, whether the sidewalk was there or not.

Ms. Fransen agreed but indicated that by having the sidewalk on her property, it is granting public access to her property. As the sidewalk is on her property it makes her the target of a lawsuit.

Trustee Davi asked counsel if someone were injured on the sidewalk on her property, would the homeowner's insurance cover that type of incident. Attorney Durkin indicated that it most likely the insurance company would defend the homeowner in a lawsuit.

Trustee Davi also asked what Tri-State's assessment was. Director Krol indicated had met with the fire inspectors and inspected the site of the fire hydrant. Their assessment, based on the location of the water main and the gas line, is that there is nowhere else for it to be located. The inspectors also indicated that a fire hydrant is required in that location.

Mayor Trilla asked Ms. Fransen to confirm that it is the corner lot that would be sold. She indicated it was. The Mayor noted that if the builder intended to cut a driveway across the easement, that could create an additional set of issues.

Trustee Mistele thanked Ms. Fransen for coming in and indicated he was familiar with the original easement resolution. The original intention, at the time of passage, was for that easement area, including the sidewalk, water main and fire hydrant, to become the responsibility of the Village of Willowbrook as part of the public right-of-way. His understanding is that anything that occurs in the public right-of-way is the responsibility of the Village and that the easement widens the public right-of-way.

The Mayor clarified that Trustee Mistele is not an attorney and, as such, cannot present a legal opinion for the Village. If you wanted to explore the issue from that standpoint, you could explore it through the Village attorney.

#### 6. ADJOURNMENT

MOTION: Made by Trustee Davi and seconded by Trustee Berglund to adjourn the Special Meeting at the hour of 5:51 p.m.

ROLL CALL VOTE: AYES: Trustees Astrella, Berglund, Davi, Mistele, Neal and Ruffolo. NAYS: None. ABSENT: None.

MOTION DECLARED CARRIED

PRESENTED, READ, and APPROVED.

\_\_\_\_\_, 2023.

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Frank A. Trilla, Mayor

Minutes transcribed by Deputy Clerk Christine Mardegan.