

Minutes of the Executive Session
April 12, 2016 6:30 p.m.
Village Hall of Tinley Park
Fulton Conference Room

Motion was made by Trustee Younker, seconded by Trustee Pannitto to adjourn to Executive Session to discuss:

The purpose of this Executive Session was to discuss:

- a) THE PURCHASE OR LEASE OF REAL PROPERTY FOR THE USE OF THE PUBLIC BODY, INCLUDING MEETINGS HELD FOR THE PURPOSE OF DISCUSSING WHETHER A PARTICULAR PARCEL SHOULD BE ACQUIRED.
- b) THE SETTING OF A PRICE FOR SALE OR LEASE OF PROPERTY OWNED BY THE PUBLIC BODY.
- c) LITIGATION, WHEN AN ACTION AGAINST, AFFECTING OR ON BEHALF OF THE PARTICULAR PUBLIC BODY HAS BEEN FILED AND IS PENDING BEFORE A COURT OR ADMINISTRATIVE TRIBUNAL, OR WHEN THE PUBLIC BODY FINDS THAT AN ACTION IS PROBABLE OR IMMINENT, IN WHICH CASE THE BASIS FOR THE FINDING SHALL BE RECORDED AND ENTERED INTO THE MINUTES OF THE CLOSED MEETING.
- d) THE SELECTION OF A PERSON TO FILL A PUBLIC OFFICE, AS DEFINED IN THIS ACT, INCLUDING A VACANCY IN A PUBLIC OFFICE, WHEN THE PUBLIC BODY IS GIVEN POWER TO APPOINT UNDER LAW OR ORDINANCE, OR THE DISCIPLINE, PERFORMANCE OR REMOVAL OF THE OCCUPANT OF A PUBLIC OFFICE, WHEN THE PUBLIC BODY IS GIVEN POWER TO REMOVE THE OCCUPANT UNDER LAW OR ORDINANCE.
- e) THE APPOINTMENT, EMPLOYMENT, COMPENSATION, DISCIPLINE, PERFORMANCE, OR DISMISSAL OF SPECIFIC EMPLOYEES OF THE PUBLIC BODY OR LEGAL COUNSEL FOR THE EMPLOYEES OF THE PUBLIC BODY OR LEGAL COUNSEL FOR THE PUBLIC BODY, INCLUDING HEARING TESTIMONY ON A COMPLAINT LODGED AGAINST AN EMPLOYEE OF THE PUBLIC BODY OR AGAINST LEGAL COUNSEL FOR THE PUBLIC BODY TO DETERMINE ITS VALIDITY.

Vote on roll call: Ayes: Maher, Grady, Pannitto, Vandenberg, Younker. Nays: None. Absent: None. Mayor Seaman declared the motion carried and this meeting was adjourned to Executive Session at 7:47 p.m.

The Deputy Village Clerk announced that this Executive Session is now being recorded.

A roll call was taken:

In attendance and

Responding to roll call:

D. Seaman, Mayor
B. Maher, Village Trustee
T. J. Grady, Village Trustee
M. Pannitto, Village Trustee
J. Vandenberg, Village Trustee (Arrived 8:22 p.m.)
B. Younker, Village Trustee

Absent:

P. Rea, Village Clerk

Staff Present:

D. Niemeyer, Village Manager
S. Tilton, Assistant Village Manager
B. Bettenhausen, Village Treasurer (Departed 9:25 p.m.)
T. Melody, Village Attorney
P. Carr (Departed 8:22 p.m.)
L. Godette, Deputy Clerk

Others Present:

S. Viz, Attorney (Departed 8:22 p.m.)

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Trace Ambulance Litigation – Steve Viz presented and update on the Trace Ambulance Litigation. Mr. Viz noted the following update. Carl Vandenberg, Attorney for Trace, will be filing a motion for judge to bring to a head whether or not the language for the contract requires any sort of payment to Trace. The original claim was approximately \$1,000,000 they went down to \$500,000 at the time the complaint was filed after going through documentation with Carl Vandenberg the current settlement offer is \$150,000. Mr. Vandenberg claims that the Village requested additional ambulances beyond the minimums required by the contract from 2010 to 2014 for a total of approximately 754 hours multiplied by the \$200 per hour rate in the contract for a total of approximately \$150,000. In addition, he claims additional ambulances were provided over the minimum required by the contract from 2010 to 2014 through the Village's 911 dispatch center. Traces records indicate these additional ambulances over the required minimums responding to 911 calls amount to 1,455 hours at \$200 per hour for a total of \$291,000. Trace has provided documentation setting forth the alleged requests for additional ambulances by the Village. Mr. Viz noted that Mr. Vandenberg has additional data (time cards) to prove his documentation is correct. After discussion the Board directed Mr. Viz to get the time cards from Trace to collect the data showing the total number of hours. If Mr. Vandenberg can prove that these numbers (times on information provided to Village) are correct the Village is ready to talk about a settlement. Once all the information is collected the Board will decide on a settlement amount.

Eberhart/Weigand and Eberhard/FOIA Litigation– Offer of Dismissal – Tom Melody provided an update on the Eberhardt/Weigand FOIA litigation. Mr. Eberhardt deposed Rebecca Nichols on April 7, 2016. During the deposition, she confirmed that the Village had absolutely no control over the Farmers' Market or its bank account in 2013 or at any other time. Mr. Eberhardt informed Mr. Melody that he will dismiss both his and Mr. Weigand's FOIA cases, with prejudice on the next court date of April 19, 2016.

Eberhardt Stuckly Case Litigation – Tom Melody provided an update on the Stuckly Case where in Mr. Eberhardt filed a TRO (Temporary Restraining Order) for April 19, 2016, which is against the Plan Commission from taking any action based on the text amendment. Trustee Pannitto asked if this civil case could interfere with the Sheriff's investigation. Trustee Maher stated he did not think it would. Mr. Eberhardt is also dismissing Tom Melody as a defendant.

Both Mayor Seaman and Trustee Pannitto did some research on law firms to work on this case. Trustee Pannitto researched three firms and was waiting to hear from two. One of which he preferred was Kozacky, Wietzel and McGrath who seemed uniquely suited to address the procedural issues at hand and had worked with Illinois Department of Housing. One of the others is a Detroit firm who usually represent developers. Mayor Seaman researched Mahoney, Silverman, and Cross. This firm seems to good in zoning and procedural issues.

The Board determined that Trustee Pannitto and Trustee Maher should meet with Kozacky, Wietzel and McGrath. If both trustees are satisfied, the appointment of this firm to represent the Village in this litigation should be placed on the April 19, 2016 Village Board Agenda.

Ethics Case (Eberhardt) – Mayor provided an update on the Ethics investigation regarding Mike Clark, Chairman of the MainStreet Commission. Mr. Eberhardt had told the Mayor that he would dismiss this case if Mike Clark would resign from the MainStreet Commission. Mike Clark informed the Mayor that he would be resigning.

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Central Middle School – Land Sale – Village Manager Niemeyer updated the Board on the land sale for the Central Middle School property. The Village recently discussed a land sale for the former Central Middle School site with Red Seal Development Corporation and Odawa Development Incorporated. Each firm is interested in purchasing the property from the Village and working on a market rate for-sale Vertical Townhome product matching the Legacy Plan and Code. A summary of the two offers are as follows:

- *Red Seal Corporation* – Purchase price \$650,000 for an average 1,730 sq. ft. townhome unit at approximately a \$251,000 sale price. The development would consist of approximately a \$251,000 sale price. The development would consist of approximately 45-50 market rate townhomes of which they would develop the land and the housing product. The developer would be seeking \$2.63 million in TIF incentives that would include on-site infrastructure improvements, off-site infrastructure improvements, recapture costs and soft costs.
- *Odawa Development Incorporated* – Purchase price \$820,000 with an approximate sale price per unit of \$250,000. The development would consist of approximately 45-50 market rate townhomes. Odawa Development would develop the land and collaborate with a builder that would construct the homes. The developer is requesting assistance of the recaptures required for the conveyance system and storm water detention pond with their recaptures reimbursed on an individual permit basis. The recapture for their portion of the master storm water detention pond would be \$109,651, the recapture for the Oak Forest Avenue Conveyance System would be \$79,492 and the recapture for the Connection Conveyance System to the South Street site is ½ of the \$190,000 or \$95,000. The Developer has provided a purchase contract for the Village to consider.

The build out time frame for both proposed developments would be approximately 3 years at approximately 15 units per year. The Village recently had the appraisal for the property updated and the confirmed appraisal value is approximately \$800,000.

After discussion it was the consensus of the Board to have the Village Attorney review the Odawa Development Incorporated Development Agreement and proceed with the project with Odawa. Trustee Pannitto asked if this project is just developers building townhomes for sale. Village Manager Niemeyer stated yes.

Parking Lot / Zabrocki Plaza – Land Acquisition – Village Manager Niemeyer provided an overview of the expansion project for Zabrocki Plaza. As part of this expansion proposal, Metra will require a 1 to 1 replacement of commuter parking within walking distance to Metra Station. Staff has outlined various options for consideration for replacement parking, currently estimated at 150 spaces. A number of the replacement parking options would consist of land acquisition to accomplish the required number of commuter spaces. Mayor Seaman stated that a possible option would be to purchase the private lot on South Street. Additionally, Mayor Seaman asked that Staff look into the dozen 3 hour parking spaces in B lot. Trustee Vandenberg noted that these may be for the restaurant in the Train Station. Village Treasurer Bettenhausen noted that staff would look into this. After discussion the Board direction to Staff was to meet with Metra to get definition as to what their requirements will be when the expansion project is taken place. Trustee Younker asked Staff to provide the design concepts for the Board to review.

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Amendment to GovTemps Contract for Interim Community Development Director – Village Manager Niemeyer asked the Board to consider amending Paul Wallrich' hourly rate paid to GovTemps from \$54.53 per hour to \$91.00 per hour. This is due to the increased responsibilities in taking over Amy Connolly's and some of Mike Mertens' duties. Mayor Seaman noted the Wallrich would be taking on the Community Development Director role. Niemeyer stated yes. Trustee Vandenberg spoke highly for Wallrich. Trustee Maher asked how the amount per hour came about. Niemeyer stated this is approximately the amount Mike Mertens' was being paid and Wallrich will also be doing parts of Amy Connolly duties. Trustee Pannitto stated his concerns about the amount Wallrich would be paid and suggested getting two people to fill these positions. Niemeyer stated that his is a temporary fix. Trustees Pannitto and Vandenberg asked Staff to provide a market analysis of this position.

Niemeyer also that he would like the Board to consider that there are many projects that need to be moving forward and that he would like to bring in a project manager to help with projects such as Kimberly Heights and Zabrocki Plaza. At this time he would like the Board to think about this.

Trustee Younker asked about the filling the position of Assistant Public Works Director and if Jerry Walters (who had applied for the Public Works Director position had been contacted). Niemeyer stated that he and Public Works Director Workowski are planning on discussing this later in the week. Trustee Younker also asked who would be heading up the study for revising the organizational chart at the Village Hall. Neimeyer stated at this point he was.

Trustee Younker inquired about staff appointments and would Amy Connolly be part of that appointment process. The Mayor stated that this does not have to happen on May 1. Village Attorney stated that the Board needs to consider the investigation into Amy Connolly. Trustee Pannitto stated to consider the revised Organizational Chart.

Upon discussion the consensus of the Board was to have Assistant Village Manager for Economic Development/Planning/Building and Planning Director combined into one position, Community Development Director, as part of the revised Organizational Chart. The Building Inspector position should go forward. Trustee Vandenberg would like to continue the discussion regarding the Organizational Chart at future meetings.

Motion was made by Trustee Younker, seconded by Trustee Vandenberg, to adjourn this Executive Session and return to the Special Committee of the Whole. Vote on roll call: Ayes: Maher, Grady, Pannitto, Vandenberg, Younker. Nays: None. Absent: None. Motion carried and this Executive Session was adjourned at 9:58 p.m.

Motion was made by Trustee Younker, seconded by Trustee Grady, to adjourn the Special Committee of the Whole meeting. Vote by voice call. Mayor Seaman declared the motion carried and adjourned the regular Village Board meeting at 10:00 p.m.

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