

Minutes of the Executive Session
Village Board Meeting
September 20, 2016 8:00 p.m.
Village of Tinley Park
@ Village Hall of Tinley Park

Motion was made by Trustee Younker, seconded by Trustee Maher, 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. 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.

Vote on roll call: Ayes: Maher, Grady, Vandenberg, Pannitto, Younker. Suggs. Nays: None. Absent: None. Mayor Seaman declared the motion carried and this meeting was adjourned to Executive Session at 8:35 p.m.

The 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
P. Rea, Clerk
B. Maher, Village Trustee
T. J. Grady, Village Trustee
J. Vandenberg, Village Trustee
M. Pannitto, Village Trustee
B. Younker, Village Trustee
K. Suggs, Village Trustee

Staff Present:

D. Niemeyer, Village Manager
S. Tilton, Assistant Village Manager
P. Connelly, Village Attorney
L. Godette, Deputy Clerk

Others Present:

P. Rettberg (Arrived 8:37 p.m./Departed 9:06 p.m.)

Update on Tinley Sparks Case – Attorney Paul Rettberg provided an updated regarding the Tinley Sparks litigation noting after Judy Bruning’s deposition in Tinley Park last Thursday, at the request of Eberhardt and one of his attorney’s, Palles, he had a discussion with both of them regarding possible resolution of the lawsuit. They made a formal demand of \$75,000 predicated solely upon attorney’s fees which have been incurred by the firm of Palles and Ravitz in the lawsuit. The dismissal would include not only Tinley Park but also all of the 16 individually named defendants. They claimed that it would be difficult for them to negotiate any lower amount.

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As the discussion evolved, the state court lawsuit involving the alleged impropriety of using Village funds to purchase tickets to fundraisers, dinners, etc. for village officials was also mentioned in addition to a controversy involving garbage disposal fees. Mr. Rettberg knew that John Murphey is handling the state court lawsuit about the tickets but doesn't have any information whatsoever regarding the garbage fee issue. Eberhardt indicated that he would be willing to release those disputes as well and enter into a nondisclosure agreement regarding the settlement. He doesn't know the details regarding the two other controversies mentioned in this paragraph. He does not believe that a confidentiality agreement is enforceable. They emphasized that if they continue to incur attorney's fees in the prosecution of this lawsuit that the offer would be off the table. He told him that he would advise the Village and IRMA of their demand.

We are nearing the end of discovery and the next stage will be filing a motion for summary judgment. While Mr. Rettberg believes that we should be able to obtain a summary judgment on behalf of many of the individually named defendants, he doubts that the judge would grant the motion in its entirety. In all likelihood, she will find that there are genuine issues of material fact as to some of the allegations which would allow the case to proceed to a jury trial. This is a preliminary opinion as all of the depositions have not been completed as of this date. Realistically, he does not believe that Eberhardt can prove any significant amount of actual compensatory damages. However, case law permits a jury to award damages for alleged violations of First Amendment free-speech rights, even though there are not any actual damages. A judgment in any amount on the constitutional counts would enable the plaintiff to recover attorney's fees which are likely to be in the range of \$150,000-\$200,000 going forward over and above the \$75,000 now being claimed. They are not requesting any injunctive relief as part of their proposed settlement.

Village Manager Niemeyer noted that if the Board decides to settle this case it actually resolves two lawsuits, the Tinley Sparks and Dement cases. Village Attorney Connelly stated that the confidentiality agreement does not mean anything, information could still be received through FOIA. Attorney Connelly noted that John Murphy, the attorney for the Dement case, does not believe there is any advantage to the dismissal of the Dement case this is a defensible case. Village Manager Niemeyer noted cost is the benefit. Upon discussion it was the consensus of the Board to direct reject the offer and continue to defend the case. At this time Trustee Pannitto requested more time to consider this issue.

Panduit Land Donation – Village Attorney Connelly stated that the agreement with Panduit is not ready and will bring this before the Board at a future Executive Session.

Motion was made by Trustee Vandenberg, seconded by Trustee Pannitto, to adjourn this Executive Session and return to the Village Board Meeting. Vote on roll call: Ayes: Maher, Grady, Vandenberg, Pannitto, Younker, Suggs. Nays: None. Absent: None. Motion carried and this Executive Session was adjourned at 9:07 p.m.

Motion was made by Trustee Suggs, seconded by Trustee Pannitto, to adjourn the Village Board meeting. Vote by voice call. Mayor Seaman declared the motion carried and adjourned the regular Village Board meeting at 9:10 p.m.

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