

**VILLAGE OF CARPENTERSVILLE  
BOARD OF TRUSTEES  
REGULAR BOARD MEETING  
November 20, 2012**

The regular meeting of the Village Board of Trustees was called to order at 7:00 p.m. Those present for roll call were Trustees Rehberg, Teeter, Burroway, McFeggan, Humpfer and President Ritter. Also present were Village Manager Rooney, Assistant Village Manager Wade, Attorney Rhodes, Police Chief Popp, Fire Chief Schuldt, Public Works Director Cole, Community Development Director Wucki-Rossbach, Assistant Finance Director Smith and Assistant Public Works Director/Village Engineer Gray.

Trustee Schultz was absent due to illness.

The Pledge of Allegiance followed.

**INVOCATION**

Pastor Salomon Rogel from Iglesia Rebano Carpentersville provided this evening's Invocation.

**PUBLIC HEARING – SECOND AMENDMENT TO THE ANNEXATION AGREEMENT FOR THE PRAIRIES AND MEADOWS OF WINCHESTER GLEN SUBDIVISION**

Trustee Teeter moved to Open the Public Hearing. Trustee Humpfer seconded. Voice vote was unanimous.

Attorney Rhodes detailed the notices that were provided in compliance with state statute requirements of the Public Hearing to consider a Second Amendment to the Annexation Agreement for the Prairies and Meadows of Winchester Glen Subdivision. The notices also provide for the provisions of the second amendment; reducing the permit deposit required for each single family dwelling from \$4,000 to \$5,000 total deposit for the remaining units within the subdivision, reduce the engineering fees from \$500 per review to \$250 per review and would allow Pulte to construct certain styles of homes upon lots in the Phase II of the Terraces and Parks of Winchester Heights subdivision as long as the homes comply with all applicable zoning requirements, fireplaces and chimneys located on the outside of the home would be removed from the remaining vacant lots, acceptance of the street improvements for Phase II of the subdivision could be accomplished with Village Board's approval prior to all residential units being sold and to reduce the number of required sewer televising from three times to two times.

**Recognition of persons desiring to be heard**

There were no requests from the audience.

Trustee Teeter moved to Close the Public Hearing. Trustee Humpfer seconded. Voice vote was unanimous.

**PROCLAMATIONS, CONGRATULATORY RESOLUTIONS, AND AWARDS**

**Proclamation Recognizing November, 2012 as National American Indian Heritage Month**

Trustee Humpfer read aloud the Proclamation Recognizing November 2012 as National American Indian Heritage Month that honors the American Indians for their contributions that have enhanced the freedom and prosperity of America and whose customs, traditions and legacy are respected

and celebrated throughout the United States.

## **CONSENT AGENDA**

President Ritter asked if any Board Member wished to remove an item from the Consent Agenda for further review and discussion. No removals were requested.

Trustee Teeter moved to approve A. Bills for Fiscal Year 2012 - 2013 Totaling \$1,410,942.94; B. Minutes from the Regular Board Meeting of November 6, 2012; C. Request from Dundee Township Park District to Host a Fireworks Display; D. Resolution to Approve a Settlement and Release Agreement; E. Resolution Approving a Hold Harmless and Indemnification Agreement; F. Resolution to Approve a General Release; and G. Ordinance Authorizing Obenauf Auction Services to Dispose of Items of Personal Property Owned by the Village of Carpentersville. Trustee Rehberg seconded. Vote: 5 – ayes (Teeter, Burroway, McFeggan, Humpfer, Rehberg) 0 – nay. Motion passed.

## **REPORTS OF MANAGER, OFFICERS, COMMITTEES AND STAFF**

- Fire Chief Schuldt stated that Kane County currently has a Reverse 911 Program in force; however, in the past, this program had very little support from QuadCom and would not be a viable option for the community. Recently, President Ritter and Manager Rooney have had discussions at the County level and from these discussions; the Village will be able to utilize the County's Reverse 911 Code Red Program with very little cost to the Village. He detailed those emergency situations that he and Police Chief Popp believe will benefit from this program and noted how it will be implemented as an addition to the Village's Emergency Preparedness Manual. Any cost to the Village will come from activating the program over a threshold amount; to date the County has not assessed a fee to any community since the program's inception. Brief discussion followed how the program will benefit the community with the ability for residents to be alerted of an emergency situation in a timelier manner.

## **Audit and Finance Commission**

Trustee Humpfer had the following report from the November 12<sup>th</sup> Commission meeting. The following items were discussed:

- The Baecore Agreement and those recommended changes that will be implemented to provide greater efficiency within the Finance Department processes.
- With the intention of changing banks the Village utilizes, the status of the banking Request for Proposal was discussed; responses have been received from four local banks.
- In an effort to realize a savings with interest costs, the refinancing of bonds was considered.
- The 2012 Tax Levy was discussed; although there is a slight increase in the levy, based upon actuarial numbers, this increase is primarily to fund the fire and police pension obligation and debt service. Trustee Humpfer provided details of the need for the increase to fund certain obligations primarily the impact affordable health care will have to the Village's budget and the contractual increase of the refuse collection.
- The next Commission meeting will be January 29<sup>th</sup> when budget discussions will begin.

## **Business Development Commission**

Trustee Teeter stated members of the Commission attended the Grand Opening of Big Lots and Cash America and discussed what an asset both businesses will be to the community.

Trustee Teeter and Assistant Manager Wade represent the Village on the Northern Kane County Chamber of Commerce Board; with so much need throughout the community, a FISH Food Pantry collection box will be placed in Village Hall along with several collection boxes throughout the Village. The Oddfellows will be hosting a dinner on November 30<sup>th</sup> with all proceeds going to the Pantry.

### **Park Commission**

In Trustee Schultz's absence, Assistant Public Works Director Gray provided the report from the recent Commission meeting.

- Representatives from Alpine Bikes were present to discuss their tour and review along with CAMBr of the Keith Andres Project; they provided input of bike trail concepts and will map out a concept bike trail for consideration by the Park Commission. President Ritter noted how excited the representatives were of the project that will be completed in phases; this will enable residents to see the progression of work being completed.
- Four substantial sized trees were relocated in Carpenter Park in anticipation of the parking lot improvement project that will begin early spring; these trees were located in the area that the new parking lot will be located. Sixteen trees were also planted in and around the Park to replace trees that were damaged or had died.
- Director Gray also noted that bronze plaques were installed at McNamee Park, Jack Hill Park and on Main Street. Today, Public Works cleaned the light fixtures along the Main Street Bridge and put up the decorative wreaths.

### **NEW BUSINESS**

#### **Consideration of a Resolution Determining the Estimated Amount of the Tax Levy for Tax Year 2012**

Trustee Teeter moved to pass a Resolution Determining the Estimated Amount of the Tax Levy for Tax Year 2012. Trustee Humpfer seconded.

Manager Rooney stated that staff has recommended approval of a levy amount of \$11,378,571.00 for Public Safety, Capital Improvements, Debt Service and Pension obligations for tax year 2012. He noted the increase of 4.9% falls under the 5% threshold that would require Truth in Taxation Publication; however, if the dollar amount was approved this evening, the Board would wait the 20 day requirement and not consider passing the levy until the December 18<sup>th</sup> Village Board Meeting.

Trustee Teeter stated the Village levies a dollar amount, with the Equalized Assessed Value going down approximately 10%; this affects the rate that is used as a multiplier to enable the Village to receive the levied amount needed for debt, pension and operating obligations. With the decline of the EAV, President Ritter stated the tax rate will increase; the rate does not have the same implications it had in the past and holding the rate steady cannot be held to past practices.

Vote on Motion: 5 – ayes (Burroway, McFeggan, Humpfer, Rehberg, Teeter) 0 – nay.  
Motion passed.

## **Consideration of a Resolution Approving a Third Amendment to the Annexation Agreement (Winchester Glen Development)**

Trustee Humpfer moved to pass a Resolution Approving a Third Amendment to the Annexation Agreement (Winchester Glen Development). Trustee Teeter seconded.

President Ritter noted this was the subject of the Public Hearing earlier this evening; hopefully, the requested amendments will assist Pulte to sell the remaining vacant lots and complete the subdivision. Manager Rooney noted that Community Development Director Wucki-Rossbach has been working with Pulte for over a year to come to an agreement of those changes to the Annexation Agreement that Attorney Rhodes detailed earlier. Discussion followed reiterating those amendments that are being recommended for approval.

Mr. Mark Mastrococco of Pulte Homes was present and thanked the Village Board for this consideration and commended staff for their efforts at this time and five years ago when the original annexation was considered. He stated this endeavor has been a partnership from the beginning. On behalf of Pulte Homes, he thanked the Village for allowing them the opportunity to build this subdivision and become a part of the community and looks forward to completing the neighborhood.

Vote on Motion: 5 – ayes (McFeggan, Humpfer, Rehberg, Teeter, Burroway) 0 – nay.  
Motion passed.

## **Consideration of an Ordinance Declaring Surplus Municipal Real Estate**

Trustee Humpfer moved to adopt an Ordinance Declaring Surplus Municipal Real Estate. Trustee Teeter seconded.

Manager Rooney stated this Village owned parcel is located west of Fire Station #1 and is the property that the former Public Works garage was located on and housed the former fuel tanks and salt dome. The structures have been razed, the property has been “cleaned” and there have been environmental testing completed; the parcel has been readied to advertise for selling. Manager Rooney also noted that staff has been in discussions with ComEd to consider a land swap that would enable the substation to be moved to another location that would further improve marketing the property.

Vote on Motion: 5 – ayes (Humpfer, Rehberg, Teeter, Burroway, McFeggan) 0 – nay.  
Motion passed.

## **Consideration of an Ordinance Amending the Village of Carpentersville Municipal Code, Title 16, “Zoning”, Revising Regulations Therein in Relation to Permitted and Prohibited Tree Species**

Trustee Humpfer moved to adopt an Ordinance Amending the Village of Carpentersville Municipal Code, Title 16, “Zoning”, Revising Regulations Therein in Relation to Permitted and Prohibited Tree Species. Trustee McFeggan seconded.

Manager Rooney deferred comments to Trustee McFeggan who, being an arborist, was the proponent to revise the Code implementing changes to the current regulations.

Trustee McFeggan discussed his review of the list of trees that are permitted to be planted on Village owned property and right-of-ways that he believes could be expanded to include more species. It has been his experience that to expand this list would provide a diverse selection of trees especially with issues the Village is currently addressing with the Emerald Ash Borer; if there should be a problem with a species, the number of trees that are impacted would not be to the

extent that the Emerald Ash Borer has impacted. With the recommended additions, there could be over 100 species of trees to choose from.

Vote on Motion: 5 – ayes (Rehberg, Teeter, Burroway, McFeggan, Humpfer) 0 – nay.  
Motion passed.

### **Consideration of a Resolution Adopting a Policy Related to the Eradication of the Emerald Ash Borer by Means of Tree Removal and the Replacement of Trees by Means of a Cost Share Program**

Trustee Humpfer moved to pass a Resolution Adopting a Policy Related to the Eradication of the Emerald Ash Borer by Means of Tree Removal and the Replacement of Trees by Means of a Cost Share Program. Trustee McFeggan seconded.

Manager Rooney requested Public Works Director Cole to provide details of the amount of work that he, along with expertise input from Trustee McFeggan, have put forth to establish the policy. He also noted that certain revisions to the policy will need to be made after discussion this evening.

Director Cole provided a brief update on tree removal efforts; as of Friday, November 16<sup>th</sup>, the Public Works Street Department has removed 415 trees infested with the Emerald Ash Borer and the contractor hired to remove 82 of the larger trees have removed 42 thus far. The stump grinding and replacement has not yet begun. Director Cole provided details of the final policy that was presented in October to the Audit and Finance Commission for their approval and recommendation to the Village Board. Since that time, Director Cole and Trustee McFeggan have met to discuss issues and concerns that Trustee McFeggan has expressed with certain provisions of the policy; with many having validity, Director Cole stated that direction on these items is requested this evening. Trustee McFeggan's first concern is with #3 Replacement that he believes does not address those residents who are not interested in participating in the cost share program and recommended incorporating language that would address this. Director Cole read aloud the additional language that indicates those trees located at addresses of residents who do not wish to participate in the cost share program will be replaced when time and resources are made available to the Public Works Department; Trustee McFeggan was agreeable to this additional provision. Director Cole read aloud the statement under Management of Private Trees that was presented in the policy in October that states "The Village does not specifically obligate the owner to remove and or replace private trees suspected of the EAB infestation" which is in conflict of what the Code requires that no dead or diseased trees shall be allowed on any real property within the Village; Director Cole incorporated this language into the policy to be consistent with the Village Code.

On page 3, Cost Sharing Program is an issue that Director Cole and Trustee McFeggan have differing philosophies; the Audit and Finance Commission had directed Director Cole to allow homeowners the ability to plant trees within the Village's right-of-way. Attorney Rhodes has drafted a waiver the homeowner would sign prior to the homeowner planting the tree. Because of Trustee McFeggan's concern, Director Cole stated this language has not been incorporated into the policy and is requesting Board's direction to determine the language that should be incorporated. Under this same provision, Director Cole has highlighted 7. Trees will be replaced by an experienced landscape contractor which would be hired by the individual landowner or the Homeowners' Association in certain cases and 8. Tree contractors will be paid Prevailing Wage. Director Cole requested Attorney Rhodes to provide details of the Prevailing Wage Act and the Village's requirement or obligation relative to paying prevailing wage.

Attorney Rhodes provided details of the Prevailing Wage Act as interpreted by the Illinois Department of Labor that indicates with respect to certain landscaping as part of a Village-wide program the prevailing wage needs to be paid. With respect to the cost sharing program, the Village is contributing a portion of the tree replacement; therefore, because public funds are being used, the Illinois Department of Labor will likely take the position that prevailing wage must be paid.

He discussed various options the Village can consider to ensure prevailing wages are paid for each tree replacement. Based upon President Ritter's question, Attorney Rhodes stated if a resident chose not to participate in the cost sharing program, prevailing wages would not be required to be paid. Manager Rooney indicated that the Board must first determine if a resident would be allowed to plant their own tree and the issue of paying prevailing wage would then be addressed to ensure all requirements of the Act were met. Attorney Rhodes noted the question of liability is an issue that must be considered; all contractors do carry insurance while some homeowners may not. Detailed discussion ensued regarding when prevailing wage would be required to be paid and whether a homeowner should be allowed to plant a tree on the right-of-way for the issues this could present.

Trustee McFeggan discussed the reasons why he is not in favor of allowing residents to plant their own trees; a liability issue could be present, the knowledge and expertise that is needed to plant and sustain a larger tree that the average homeowner does not have, the policies and procedures that are in place that may not be abided by a homeowner and the additional work the Public Works Department may incur due to trees being planted incorrectly and not sustained or planted in the wrong location and need to be moved. Contractors ensure the tree is planted in compliance with Village Codes and lessen the likelihood of liability and utility encroachment issues. Trustee Humpfer noted that \$75,000 of the tax levy is allocated to tree replacement and if a homeowner chose to plant their own tree, this would be additional funds that could be utilized for other plantings. Discussion continued over concern that if homeowners accept the \$50 cost sharing and had to pay prevailing wage for a contractor this could not incentivize a homeowner to replace the tree.

Trustee McFeggan moved to amend the EAB Policy by adding 7. Trees will be replaced by an experienced landscape contractor and 8. Tree contractors will be paid Prevailing Wage, if required. Motion died for lack of second.

Trustee Teeter moved to amend the EAB Policy by adding 8. Tree contractors will be paid Prevailing Wage, if required. Trustee Humpfer seconded. Vote: 4 – ayes (Teeter, Burroway, Humpfer, Rehberg) 1 – nay (McFeggan). Motion passed.

Vote on Original Motion as Amended: 4 – ayes (Teeter, Burroway, Humpfer, Rehberg) 1 – nay (McFeggan). Motion passed.

### **Proposed Skateboard Ordinance Amendment – Discussion and Direction**

Manager Rooney noted the combined efforts of the Community Development and Police Departments to address an issue that has been consistently brought forth from local business owners.

Police Chief Popp stated the Police Department deals with a number of nuisances with the most problematic one being skateboarding because of how the current ordinance is structured. The language in the Code only regulates how they are to be driven or ridden, what is required to be worn while operating them and only applies to when they are on the roadway, there is nothing in the ordinance to address when they are on private property. Chief Popp noted that complaints are received when skateboarding is done on private property primarily in the retail and commercial districts and the Old Town Area; not only does this provide a safety hazard but damage is done to the property. Under the current Code, the Police would have to deal with them as they would a trespasser that requires prior notice be given to vacate the premises, "No Trespassing" signs would have to be posted and the skateboarders would have to refuse to vacate the property with the owner of the property signing a complaint of criminal trespassing to land, which could be troublesome at night and the weekends. He provided details of the recommended amendment that was brought forth collectively from Community Development and Police Departments that would primarily ban skateboarding on private property unless the person had written expressed

permission from the landowner. If a violation should occur, Chief Popp stated that warning tickets or an Ordinance Violation ticket could be issued to remedy the problem; if the Board was in favor of addressing this issue in this manner, request is further made to expand this to public areas such as Veterans Garden.

After brief discussion, the Board concurred to direct Chief Popp to move forwarding in drafting an ordinance to address this nuisance.

## **TRUSTEE REPORTS**

**Trustee Humpfer had no report this evening.**

**Trustee Rehberg had the following report:**

- He thanked Director Cole for the tour that was provided of the Public Works Facility.
- He also thanked Fire Chief Schuldt for the tour he provided of the fire facilities and QuadCom.
- He noted the new restaurant, Ali Baba, that recently opened in a building on an outlot in front of Woodman's. It serves Mediterranean food and brings diversity to the area.

**Trustee Teeter had the following report:**

- She wished everyone a Happy Thanksgiving and safe holiday.
- She thanked the Public Works staff for putting up the wreaths along the Main Street Bridge.

**Trustee Burroway had no report this evening.**

**Trustee McFeggan had no report this evening.**

**President Ritter had the following report:**

- Yesterday, President Ritter, Manager Rooney and Assistant Manager Wade met with Representative Tryon who represents a good portion of the Village. He discussed information Representative Tryon shared of items that will be considered in the upcoming session. They met with him again this morning to provide information on those Village needs that could be considered for assistance or funding at the state level.
- He noted those items that were approved this evening to continue the Village's efforts to be business friendly.
- He attended the Grand Openings of Big Lots and Cash America who both had indicated the development process went very well, they were well informed and staff was very cooperative. He stated what an asset both stores will be to the community. Trustee Humpfer noted when he visited Ali Baba, they had also indicated they had no problems and were very complimentary.
- President Ritter noted that the Salvation Army's Red Kettle Campaign is underway to assist the many residents in need.
- The Parkview Veteran's Day program was very nice as always and very well done.
- President Ritter congratulated Jim Bowmen a Carpentersville resident who was recently named

Managing Editor of the Daily Herald.

### **EXECUTIVE SESSION**

Trustee Burroway moved to adjourn to Executive Session to discuss **Section (2)(c)(1) of Open Meetings Act** – The appointment, employment, compensation, discipline, performance, or dismissal of specific 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; **Section (2)(c)(6) of Open Meetings Act** – The setting of a price for sale or lease of property owned by the public body; and **Section (2)(c)(11) of Open Meetings Act** – 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. Trustee Teeter seconded. Voice vote was unanimous to adjourn to Executive Session.

The Board adjourned to Executive Session at 8:46 p.m.

The Board reconvened at 9:27 p.m.

### **ADJOURNMENT**

As there was no further business, Trustee Teeter moved to adjourn the meeting. Trustee Burroway seconded. Voice vote was unanimous.

The meeting adjourned at 9:28 p.m.

Respectfully submitted,

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Therese Wilde, Village Clerk