

**MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
December 6, 2022**

(Approved: January 3, 2023)

A record of a legally convened regular meeting of the Council of the Village of Winnetka, which was held at the Council Chambers on Tuesday, December 6, 2022, at 7:00 PM.

- 1) Call to Order. President Rintz called the meeting to order at 7:00 PM. Village Manager Bahan called the roll. Present: Trustees Rob Apatoff, Andy Cripe, Robert Dearborn, and Kim Handler. Absent: Trustees Tina Dalman and John Swierk. Also present: Assistant Village Manager Kristin Kazenas, Village Attorney Peter Friedman, Community Development Director David Schoon, Engineering Director Jim Bernahl, and approximately 25 persons in the audience.
- 2) Pledge of Allegiance. Trustee Cripe led the group in the Pledge of Allegiance.
- 3) Quorum.
 - a) December 13, 2022 Study Session All of the Council members present said they expect to attend.
 - b) December 20, 2022 Regular Meeting All of the Council members present said they expect to attend.
 - c) January 3, 2023 Regular Meeting All of the Council members present said they expect to attend with the exception of Trustee Cripe, who stated that he will not be in attendance.
 - d) January 10, 2023 Study Session All of the Council members present said they expect to attend with the exception of Trustee Cripe, who stated that he will not be in attendance.
 - e) January 17, 2023 Regular Meeting All of the Council members present said they expect to attend with the exception of Trustee Cripe, who stated that he will not be in attendance.
- 4) Public Comment.
 - i) Katie Stevens addresses Council regarding the Village's rights and jurisdiction related to the lakefront.

President Rintz states that Council plans on discussing matters related to the lakefront during a study session in 2023.
- 5) Reports:
 - a) Trustees.
 - i) Trustee Apatoff commends the community tree lighting ceremony and the community coming together.
 - b) Attorney. None.

- c) Manager. None.
- d) Village President.
 - i) President Rintz commends the lighting ceremony and thanks the Park District, Chamber of Commerce, and Village staff for their hard work.
- 6) Approval of the Consent Agenda. Trustee Handler, seconded by Trustee Cripe, moved to approve the Consent Agenda. By voice vote, the motion carried.
- 7) Consent Agenda
 - a) Village Council Minutes.
 - i) October 28, 2022 Budget Review Meeting
 - ii) November 15, 2022 Regular Meeting
 - b) Approval of Warrant List dated November 11, 2022 – November 24, 2022 in the amount of \$7,913,899.04.
 - c) Ordinance No. MC-01-2022: Update Unincorporated Areas Fire Service Fees (Adoption)
 - d) Ordinance No. MC-03-2022: Liquor Code Update (Adoption)
 - e) Property Tax Levy and Abatement Ordinances
 - i) Ordinance No. M-15-2022: 2022 Tax Levy (Adoption)
 - ii) Ordinance No. M-16-2022: 2022 Tax Abatement GO Refunding Bonds, Series 2020 (Adoption)
 - f) Resolution No. R-112-2022: Purchase of Two Dump Trucks (Adoption)
 - g) Adoption of: FY 2023 Village Budget
 - i) Resolution No. R-115-2022: Village Budget Resolution (Adoption)
 - ii) Resolution No. R-116-2022: General Fees (Adoption)
 - iii) Resolution No. R-117-2022: Utility Rates & Fees (Adoption)
 - h) Resolution No. R-118-2022: Annual GIS Service Provider Agreement (Adoption)
 - i) Resolution No. R-119-2022: Approving Contract with the Okenite Company for the Purchase of 15kV Underground Cable (Adoption)
 - j) Resolution No. R-120-2022: Approving Contract with Wesco Distribution Inc. for the Purchase of 600 Volt Underground Cable (Adoption)
 - k) Resolution No. R-121-2022: Approving Contract with Core & Main LP for the Purchase of Water Meters (Adoption)
 - l) Resolution No. R-122-2022: Landfill Monitoring Wells Change Order (Adoption)
 - m) Resolution No. R-123-2022: Approving an Outdoor Dining Agreement with Hometown Coffee (Adoption)
 - n) Resolution No. R-124-2022: Prescient Contract Renewal (Adoption)
 - o) Resolution No. R-125-2022: Purchase of Leaf Vacuum Machine – Public Works (Adoption)
 - p) Resolution No. R-126-2022: Certificate of Appropriateness – 93 Green Bay Road Site Improvements (Adoption)

- q) Resolution No. R-130-2022: Approving Change Order No. 1 to the Contract with the Progress Group, Inc. for Services Related to Repair of the Unit #4 Rotor and Generator (Adoption)

Trustee Apatoff, seconded by Trustee Cripe, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Apatoff, Cripe, Dearborn, and Handler. Nays: None. Absent: Trustees Dalman and Swierk.

8) Ordinances and Resolutions.

Without objection, President Rintz moves consideration of Resolution No. R-127-2022 to the end of the agenda, after Closed Session.

- a) Resolution No. R-128-2022: Tree Removal Contract – Hibbard Stormwater Project (Adoption)

Engineering Director Jim Bernahl states that the proposed Hibbard Preserve Stormwater Improvements include tree removal, earthwork and grading, box culvert installation, and wetland restoration. With the first phase of work being tree removal, the Village must remove only those trees that are impacted by the proposed improvements on Cook County Forest Preserve property. The completion of tree removal work is anticipated to be completed prior to the enactment of a new U.S. Fish and Wildlife Services regulation which will be in effect on January 1, 2023.

Jim Bernahl confirms that the Village received one bid, submitted by Homer Tree Services, Inc., for the proposed contract consisting of tree removal work, the installation of perimeter fencing, and construction of access and entrance work. After negotiating the contract, the vendor agreed to complete only the tree removal services, having staff negotiate the installation of perimeter fencing and construction access and entrance work with DiMeo Brothers, Inc.

Council commends the work of Homer Tree Services, Inc..

Trustee Dearborn, seconded by Trustee Cripe, moved to adopt Resolution No. R-128-2022. By roll call vote, the motion carried. Ayes: Trustee Apatoff, Cripe, Dearborn, and Handler. Nays: None. Absent: Trustees Dalman and Swierk.

- b) Resolution No. R-129-2022: Approving a Change Order – DiMeo Contract Tree Removal (Adoption)

Engineering Director Jim Bernahl confirms that staff negotiated a contract with DiMeo Brothers, Inc for the installation of perimeter fencing and construction of access and entrance work related to the Hibbard Preserve Stormwater Improvements project.

Trustee Handler, seconded by Trustee Cripe, moved to adopt Resolution No. R-129-2022. By roll call vote, the motion carried. Ayes: Trustee Apatoff, Cripe, Dearborn, and Handler. Nays: None. Absent: Trustees Dalman and Swierk.

c) Resolution No. R-127-2022: 195, 203 – 209 Sheridan Road Plat of Consolidation (Adoption)

Community Development Director David Schoon states that the applicant is requesting approval of a Final Subdivision Plat to consolidate the existing lots located at 195, 203, 205, and 209 Sheridan Road. While 209 Sheridan Road is currently a vacant lot, the application intends to demolish the three existing homes on the property and construct a new single-family residence.

David Schoon confirmed that the Plat of Consolidation complies with Village subdivision and zoning regulations, is consistent with the Comprehensive Plan, and will eliminate two existing zoning nonconformities on the 203 and 205 Sheridan Road parcels.

Adam Hoeflich, a litigator from the law firm of Bartlit Beck, on behalf of the applicant, addressed the Council regarding the Plat of Consolidation legal matters, advisory board approvals, compliance matters, and the history of the lakefront pertaining to the property lines. Mr. Hoeflich stated that if the Village did not approve the plat of consolidation, Mr. Ishbia would sue the Village in a mandamus action in court. Mr. Hoeflich also stated that denial would lead to a “class of one” equal protection claim against the Village. Mr. Hoeflich also stated that his client is disappointed that a Village resident threatened the license of their surveyor.

Cal Bernstein, another lawyer on behalf of the applicant, informed the Council of the letter of support from the applicant’s neighbors.

Jack Bleck, the applicant’s licensed surveyor, informed the Council of the survey services provided for the applicant.

Kristin Ishbia addressed Council regarding concerns for her family’s privacy and her family’s goals for moving to Winnetka.

Public Comment

- i. Judy Rau expressed her concerns regarding the waterfront plans.
- ii. Jenny Morehead expressed her support for the Ishbia family.
- iii. Chase Timmy expressed his support for the Ishbia family.
- iv. Chuck Dowding is in favor of the Plat of Consolidation and expressed his concerns regarding the proposed plans submitted.
- v. Brad Morehead expressed his support for the Ishbia family and matters related to property rights.
- vi. Ted Wynnychenko addressed Council on historic and lawful matters related to the shoreline and expressed his concerns related to State land versus private ownership. He stated that if the Village denies the plat of consolidation, the Village will get sued. Mr. Wynnychenko denied the allegations regarding the call he made to the applicant’s surveyor.
- vii. Bob Rasmis urged Council to verify accuracy, impact, and ensure that what has been proposed is consistent with regulations and law.

- viii. Katie Stevens welcomed the Ishbia family to the Village, however, Ms. Stevens expressed concerns related to the submitted plans and urges Council to work with a coastal engineer.
- ix. Martin Sinclair, a litigator from the law firm of Sperling & Slater, addressed the Council on matters related to ownership of the shoreline and the Illinois Public Trust Doctrine. He stated that he represents the Winnetka resident who has sued the Winnetka Park District related to lake front beach issues and the Public Trust Doctrine. He stated that any Illinois citizen has standing to bring a legal action against a violation of the Public Trust Doctrine. He also stated that to the extent the plat purports to convey public land to the applicant based on the erroneous plat, it would be a legal error and subject to challenge. He stated that his client is willing to take legal action again to protect the Public Trust, just as he did when he sued the Park District.

9) Closed Session for the Purpose of Discussing Probable or Imminent Litigation Pursuant to Section 2(c)(11) of the Open Meetings Act.

Trustee Dearborn, seconded by Trustee Cripe, moved to adjourn to Closed Session for the Purpose of Discussing Probable or Imminent Litigation Pursuant to Section 2(c)(11) of the Open Meetings Act. By roll call vote, the motion carries. Ayes: Trustee Apatoff, Dearborn, Cripe, and Handler. Nays: None. Absent: Trustees Dalman and Swierk. Council convenes the closed session in the Village Hall Conference room at ____ pm.

Council reconvened the open session at 9:26 pm to complete the remaining item on the agenda.

9) Ordinances and Resolutions (continued).

c) Resolution No. R-127-2022: 195, 203 – 209 Sheridan Road Plat of Consolidation (Adoption)

Trustee Cripe suggested adding two new recitals to the proposed resolution as follows:

WHEREAS, the Village's approval of the Final Plat (plat of consolidation) is not an adjudication, determination, or opinion on the eastern property line of the Properties, which is a question of Illinois property law beyond the purview of this Council or application; and

WHEREAS, the Village reserves its right to determine the eastern property line for purposes of applying the Village Zoning Code, if and when that issue is presented to the Village

Village Attorney Peter Friedman stated that the purpose of the new recitals is to clarify that Council is only adopting the Plat of Consolidation, and that the eastern lot line drawn by the surveyor and reflected on the plat does not set the eastern property line. He stated that the Village does not own any land in this area and that the plat can't convey property between the state and the applicant. He explained that the new recitals reiterate that the Village reserves its right to make an eastern property line determination if and when it must do so,

President Rintz confirmed that Council will reconvene at a later date to address further matters related to lakefront development.

Trustee Cripe, seconded by Trustee Dearborn, moved to adopt Resolution No. R-127-2022, as modified to include the two new recitals. By roll call vote, the motion carried. Ayes: Trustee Apatoff, Cripe, Dearborn, and Handler. Nays: None. Absent: Trustees Dalman and Swierk.

10) Old Business. None.

11) New Business. None.

12) Appointments: None.

10) Adjournment. President Rintz asked for a motion to adjourn. Trustee Dearborn, seconded by Trustee Apatoff, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 9:31 pm.

/s/Berina Gradjan, Deputy Village Clerk
Recording Secretary