

# APPROVED MINUTES

## VILLAGE OF ANTIOCH BOARD OF TRUSTEES, REGULAR MEETING Municipal Building: 874 Main Street, Antioch, IL December 5, 2005

### **CALL TO ORDER**

Mayor Larson called the December 5, 2005 regular meeting of the Board of Trustees to order at 7:30 PM in the Municipal Building: 874 Main Street, Antioch, IL.

### **ROLL CALL**

Following the Pledge of Allegiance, roll call indicated the following Trustees were present: Hanson, McCarty, Caulfield, Pierce, and Porch. Also present were Mayor Larson, Attorney Magna and Clerk Rowe. Absent: Trustee Turner.

### **APPROVE BALANCE OF AGENDA FORM**

Trustee McCarty moved seconded by Trustee Pierce to approve the balance of the December 5, 2005 meeting agenda as presented. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce, and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

### **NOVEMBER 21, 2005 REGULAR MEETING MINUTES**

Trustee Pierce moved, seconded by Trustee McCarty to approve the minutes from the November 21, 2005 regular meeting with the following correction:

Page 5 of 6 under Comment – Trustee Caulfield: The next to the last sentence should read: *Trustee Caulfield said if there wasn't a budget for the Business District Fund, he asked what criteria are being used to decide which sales method to go with.*

Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce, and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

### **PETITIONS/BIDS**

No report.

### **MAYOR**

**Authorize a holiday bonus to full and part time village employees** – Mayor Larson said that she asked Administrator Haley to research and confer with the Village Attorney regarding issuing a holiday bonus to full and part time village employees. She said the estimated cost for giving a \$50.00 bonus to full time employees and a \$25.00 bonus to part time employees would be comparable to the amount spent in the past for a meat package gift given to village employees. She said that we have 94 full time employees and 25 part time employees. Mayor Larson said that she wanted to discuss this idea with the Board to get their input.

### **Comment – Trustee Porch**

Trustee Porch said that she thought it was a great idea. She asked if the full time village employees would receive a \$50.00 check and part time village employees \$25.00. Mayor Larson said that was correct.

### **Attorney Magna**

Attorney Magna said the bonus should be subject to the appropriate taxes. He explained that there is no lawful provision for using public funds for gifts, and he wrote Administrator Haley an opinion regarding this matter. He said however, if you're going to give employees a bonus to enhance or give recognition to their performance as an employee group as a whole so long as it is subject to the usual federal and state withholding and reporting of income, then it can be considered an incentive/bonus and it's within the scope of the authority as Trustees of the public funds to do this and of course it being a reasonable amount. Attorney Magna said there is no such authorization within the law to give gifts with public funds and the State Constitution states that public funds shall not be used for private purposes. He said that if the Board chooses to give a holiday bonus we would comply with the IRS and the State Constitution.

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### **Comment – Trustee Pierce**

Trustee Pierce asked if the bonus amount would be calculated so that employees would be given a \$50.00 or \$25.00 bonus. Administrator Haley said that we would do the calculation so that the employee would receive a net \$50.00 or \$25.00 bonus.

**Authorize a holiday bonus to full and part time village employees** – Trustee Porch moved, seconded by Trustee Pierce to approve issuing full time village employees a net holiday bonus of \$50.00 and part time village employees a net holiday bonus of \$25.00, subject to individual withholding.

### **Comment – Trustee Caulfield**

Trustee Caulfield asked how the proposed bonus amount compares to the amount spent in previous years. Mayor Larson said that prior to the last administration there was not a gift given, there was a holiday party. She explained that a problem with that is we have some employees who can't attend the party such as police department or public works. Mayor Larson also discussed her conversations with Administrator Haley where they considered a luncheon but we would run into that same type of situation, so she wanted the Village Board to review this suggestion.

### **Comment – Trustee Hanson**

Trustee Hanson said that he has a tough time using tax dollars as a bonus. He said that he could justify a tangible gift. He also said that he thought we only paid \$15.00 - \$20.00 for the steaks that were given last year. Mayor Larson said we looked up the amount and it was more than that. Administrator Haley said that last years steaks gift was in the neighborhood of \$6,000. Mayor Larson said that by figuring the net amount this would be approximately \$8,000 and we have increased staff. Trustee Hanson said that we have been going through hard times and companies are cutting back and he thinks we should be the leaders and show private industry that we are doing the same. Mayor Larson said that we have asked employees to cut back on things and she believes this is a good opportunity to show them that we appreciate what they have done all year. She said that she realizes that we are not private industry and it is tax money, but she feels its good opportunity to show staff that they are valued employees.

### **Comment – Trustee Caulfield**

Trustee Caulfield said that he thinks this is a good idea in light of the fact that it's keeping within a similar dollar amount that we have been working with and he said that it gives employees the option to use the bonus in any way they choose. Mayor Larson said that she agreed and thought it was a better option than choosing a meat package or other product the employee may not use.

### **Comment – Trustee Porch**

Trustee Porch said that if she understood Attorney Magna's opinion, it is against the law to use public funds for private purchase.

### **Attorney Magna**

Attorney Magna said the State Constitution provides that public funds shall not be used for private purposes. When a public body purchases something and gives it to employees, there is no other purpose for it other than the private use of the recipient of that gift. He further explained that if the gift is in recognition or for employee performance incentive would make it income and it should be taxed. A gift would be the transfer of ownership of an item, of personal property, without any remuneration. He said that if a box of meat was intended to give incentive to employees, than its compensation and should it have been taxed. He said that we have a strong cultural tradition at this time of year for gift giving in both private industry and among private individuals. It does conflict with the restriction on the use of public funds for purely private purposes. Attorney Magna said that issuing a holiday time incentive bonus stays well within the safeguard of the line and his suggestion was that if something were to be given, give it in the nature of a bonus incentive which would relate to the taxation and compensation aspects of the bonus.

### **Comment – Trustee Hanson**

Trustee Hanson asked Attorney Magna that if this practice was common with other municipalities. He said that we have never given a bonus and that it's not a matter of if the employees deserve it or not; they probably all deserve it, but it's a matter of making a decision on something that we have never done. He said that he's uncomfortable unless we have time to research and analyze it. Trustee Hanson said that this should have been brought before the Board a month ago so we could really think about it. He went on to say that if we don't approve it, we could have employees mad with us, and if we do, we could have taxpayers upset with us.

### **Mayor Larson**

Mayor Larson said that we have been giving gifts for the past two or three years that according to our Attorney, we may not have handled it correctly. She said that we are trying to

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stay within the letter of the law and still show our employees that their work is valued and this is the time of year that we could do that.

### **Attorney Magna**

Attorney Magna said that if the bonus is kept within employee compensation, you have that discretion as a public employer. He said that paperweights or meat packages are purely for personal use and consumption and we have no legitimate public purpose to take taxpayers money and buy a paperweight and give it away. He discussed that of course there are shaded areas and these are small towns who attempt to be civil and decent, however the amounts could be significant. He said that when you look at a total bill of \$8,000 that is taxpayer money it shouldn't be spent unless we're getting something in return for it. He said giving employees' recognition and/or incentive bonus at this time of year would be appropriate as long as it's properly taxed.

### **Mayor Larson**

Mayor Larson said we used to have a holiday party that cost approximately the same as what the prior administration spent in the last two or three years.

### **Attorney Magna**

Attorney Magna said that one of the communities that he represents completely eliminated any form of gift and even the holiday party. Mayor Larson said that is certainly an option and that's why she wanted this discussion brought before the Board for their consideration.

### **Comment – Trustee Hanson**

Trustee Hanson said that we have gone through the last couple of years of struggling and granted we are getting more comfortable and the money is coming in, but he has a problem giving employees a bonus using taxpayer money. Mayor Larson said the funds are there. She said prior to bringing this to the Board for discussion, she asked Administrator Haley if the funds are available.

### **Comment – Trustee Pierce**

Trustee Pierce said that over the course of the last four to five years he has been watching the village employees who are out in the early morning hours in all kinds of weather and the employees are doing a good job for us and he thinks this is a good way to do it.

### **Comment – Trustee Porch**

Trustee Porch addressed Trustee Hanson's comments that the Village is struggling. She said that if the Village is struggling, then probably every person on staff is also struggling. She said that we have the money in the budget to do this and she thinks it's an excellent gesture to show the employees that we recognize their efforts. Mayor Larson said this is not unlike what has been done in past year.

**Roll Call Vote** – There being no further discussion, upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner

**THE MOTION CARRIED.**

### **CLERK**

**2006 Annual Meeting Schedule** – Clerk Rowe discussed the proposed 2006 Annual Village Board Meeting Schedule. She noted that in January both meetings fell on a holiday, so she listed an option to move the January 2006 meeting dates to the second and fourth Monday's of the month instead of the Tuesday following the holiday.

Following a brief discussion regarding the second and fourth Mondays conflicting with other meetings and verifying the first meeting date in July, Trustee McCarty moved, seconded by Trustee Caulfield to approve the **2006 Village Board Annual Meeting Schedule** keeping the meeting schedule on the first and third weeks of the month and correcting the first meeting in July. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

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## ADMINISTRATOR

**Amendment to Agreement for Shared Parking Lot Southwest of Depot Street and Cunningham** – Following Administrator Haley's review of the Shared Parking Lot Agreement next to the Antioch Senior Center, extending the agreement for twenty years, Trustee Hanson moved, seconded by Trustee McCarty to authorize the Mayor to sign and the Clerk to attest the Amendment to the Agreement for Shared Parking Lot Southwest of Depot Street and Cunningham Drive. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

**Use of volunteer Fire Department personnel** – Administrator Haley explained that he intends to make the attached garage a document storage room. He said that due to the public works department schedule, he would like to use a couple of volunteer firemen who are carpenters by trade. The Village Board indicated their consensus regarding the use of a couple of volunteer firemen to work on the document storage room.

## COMMUNICATIONS

No report.

## CITIZENS WISHING TO ADDRESS THE BOARD

**Steve Stanek – Linden Lane resident** approached the Board regarding Ordinance Section 8-6A-7 and the marking on Route 173 by the new development. Mr. Stanek said that the paving is finished by the new development (Neumann Homes) however, the striping is not in. He said that it's currently a mess there and the striping needs to be done.

Concerning Ordinance Section 8-6A-7 Mr. Stanek discussed a dead tree that was on the property located on the lot adjacent to his property. Mr. Stanek said that he contacted the Village last spring and spoke to Bill Smith who came out in the summer and that it's his understanding that it was referred to Code Enforcement Officer Paul Green in October. Mr. Stanek said that it's been 62 days since the property owner of the lot received a letter from the village and the trees are still there. He said a tree fell on his garage and did damage to his garage on Thanksgiving.

### **Attorney Magna**

Attorney Magna asked if the damage to the garage has been repaired. Mr. Stanek said the damage has not been repaired. Attorney Magna asked Mr. Stanek to point out the damage to village staff so it could be assessed. Mayor Larson said that our Village Administrator, Public Works Superintendent would follow up with Mr. Stanek.

### **Comment – Trustee McCarty**

Trustee McCarty discussed his involvement with Village and Homeowner Associations for a long time regarding grass and trees and beautification laws etc. Trustee McCarty said that we are not the enemy and we will look into Mr. Stanek's concerns.

Mr. Stanek said that he thinks there is a provision in the ordinance as to what the village can do, referring to Section C-2-F abatement on the copy he distributed to the Board which he understood to be mean the village would take down the tree.

### **Attorney Magna**

Attorney Magna explained that abating a nuisance means you seek an injunction and take it to court. He said the Village cannot enter onto private property to tow a car, cut down a tree or remove a porch that was constructed without permit. He said that abatement is to seek the remedy. Attorney Magna said that Mr. Stanek needs to fill out a police report asked Mr. Stanek if we have his full cooperation to allow village staff in getting photographs of the damage to access the damage to his garage. Mr. Stanek indicated his cooperation.

## LEGISLATIVE AND HUMAN RESOURCES

No report.

## PLANNING, ZONING AND BUILDING, SENIOR SERVICES

**Downtown and Route 83 Corridor Study: Request to approve in principle the extension of the development moratorium established by Ordinance 05-06-07 which goes through to December 19, 2005** – Robert Silhan, Director of Planning, Zoning and Building reviewed his following memo dated December 1, 2005 regarding the Downtown and Route 83 Corridor Study:

*SITUATION: The current moratorium was established by Ordinance Number 05-06-07, approved by the Village Board on June 6, 2005, (copy attached). Section 1 provided for the development moratorium through December 19, 2005 (a regular VBoT meeting date).*

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*The Intergovernmental Agreement with IDOT for the 90% grant, was executed by the State on July 1, 2005, one month after the moratorium was put into place.*

*While I am pleased with the progress of the study thus far, the complexities of this study (downtown versus highway concerns) is greater than that encountered during the East Route 173 Corridor Study.*

*RECOMMENDATION: Therefore, I recommend that the Village Board approve in principle an extension of the moratorium through to March 6, 2006, and direct the Village Attorney to draft the appropriate ordinance for Board action at the December 19<sup>th</sup> Village Board meeting.*

**Extension of the Development Moratorium established by Ordinance 05-06-07 –** Trustee Porch moved, seconded by Trustee Pierce to approve in principle an extension of the moratorium through March 6, 2006, and direct the Village Attorney to draft the appropriate ordinance for Board action on December 19, 2005.

### **Comment – Trustee McCarty**

Trustee McCarty said that although he is hesitant about approving a moratorium, he voted yes for the last moratorium and he was hoping that we would have been able to complete this in the time frame we had in place. He said that he realized that more time is needed, but he doesn't want to see this come back in March saying that we need more time. Trustee McCarty said that if by chance it does come back for an extension in March, he would be voting a different way.

### **Mayor Larson**

Mayor Larson said that part of the thought process was that we have gone to a big expense, there are a lot of people working the study and to have someone apply for some type of variance before we have a completed study certainly is counter productive to what we're trying to accomplish on Route 83. She said that she understood that no one likes delays, but the granting was a month late and there were a multitude of reasons to extend the moratorium.

**Roll Call Vote –** There being no further discussion, upon roll call the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

**Plat of dedication for Savage Road – Authorize Mayor to sign and Clerk attest the Savage Road Plat –** Following Robert Silhan, Director of Planning, Zoning and Building review and statement that Village Engineer Keith Fujihara reviewed the plat and that we are in agreement with it, Trustee Porch moved, seconded by Trustee Pierce to authorize the Mayor to sign and the Clerk attest the Plat of Dedication for Savage Road, thereby accepting Manhard Consultants Ltd. Plat of Dedication of Savage Road as received by the Village on 11/14/05. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

### **ENGINEERING, PUBLIC WORKS AND UTILITIES**

**Other Business –** Mayor Larson said that we have received our first snow this past weekend and that Administrator Haley reported that it went flawlessly. She said that she had the opportunity to speak to a few citizens who were amazed at how often the plows went through their areas and the good job public works department had done keeping up with the snow. Mayor Larson said the work being done by our public works department is appreciated.

### **FINANCE, ECONOMIC AND REDEVELOPMENT**

**Invoices over \$10,000 –** Trustee Porch reviewed the informational report dated December 5, 2005 prepared by village staff showing invoices over \$10,000 and totaling \$241,416.23. Invoices listed were: Blue Cross Blue Shield in the amount of \$65,638.33 for medical insurance; JP Morgan Trust in the amount of \$85,320.00 for bond principal and interest; Lauterbach & Amen, LLP in the amount of \$40,568.42 for accounting services and Plaintiff's Settlement Fund in the amount of \$49,889.48 for Primco Settlement.

### **Comment – Trustee Caulfield**

Trustee Caulfield asked if the accounting service fees were for the audit. Trustee Porch indicated that was correct. She said that staff had a draft copy of the audit and we expect the final audit by the next meeting. Trustee Caulfield asked if we should be paying for the audit before getting the final draft. Administrator Haley said that we have received the draft copy and there are a few minor changes and that he intended to pay for their services if the Board approved.

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**Authorize payment of SSA accounts payable as prepared by village staff** – Trustee Porch moved, seconded by Trustee Pierce to authorize payment of SSA accounts payable in the amount of \$2,559.51 dated December 5, 2005 and as prepared by village staff. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

**Accounts Payable** – Trustee Porch moved, seconded by Trustee Pierce to authorize payment of accounts payable as prepared by village staff and dated December 5, 2005 in the amount of \$295,913.64.

### **Comment – Trustee Caulfield**

Trustee Caulfield asked if we should pay for the audit before it's complete. Trustee Porch said there was a meeting with the auditor several weeks ago who were ready to present the audit but we had some questions. Trustee Porch said that we have been presented with a draft copy of the audit and she feels comfortable paying for their services at this time. Administrator Haley said that we could hold the check, if the Board chooses, until we receive the final audit. Both Trustee Caulfield and Trustee Hanson thought we should hold the check until we receive the audit.

### **Comment – Trustee Pierce**

Trustee Pierce said the auditors have been working on this since last year and it's time to pay them something. There was a discussion if there should be an amendment to the motion regarding accounts payable to pay Lauterbach & Amen, LLP half the amount due.

**Accounts Payable amended motion** - Following further discussion, Trustee Porch moved, seconded by Trustee Pierce to amend their motion to authorize payment of accounts payable dated December 5, 2005, excluding the payment to Lauterbach & Amen, LLP. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

**Lauterbach & Amen LLP** – Trustee Porch moved, seconded by Trustee McCarty to authorize the Village Administrator to make payment to Lauterbach & Amen LLP in the amount of \$40,568.42 upon presentation of the signed audit. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

**Manual Checks** – Trustee Porch moved, seconded by Trustee McCarty to approve the manual checks report dated December 1, 2005 as prepared by village staff in the amount of \$25,684.03. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

**Payroll Expense Report dated December 2, 2005** – Trustee Porch moved, seconded by Trustee McCarty to approve the Payroll Expense Report dated December 2, 2005 in the amount \$227,183.42 as presented. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

### **PUBLIC SAFETY, PARKS AND LICENSE**

No report.

### **DELINQUENT ESCROW ACCOUNTS**

No report.

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## **ATTORNEY**

Attorney Magna reviewed the following ordinances.

**First Reading:** *AN ORDINANCE GRANTING VARIANCE FROM REGULATIONS CONTAINED IN SECTION 10-5G-3 OF THE ANTIOCH MUNICIPAL CODE TO ALLOW A HOME TO BE CONSTRUCTED WITHIN THE REQUIRED REAR YARD SETBACK FOR LOT 146, HERON HARBOR UNIT 7; 1118 PINEHURST COURT (PZB05-10).* This item will be placed on the December 19, 2005 Village Board meeting agenda for consideration.

**First Reading:** *AN ORDINANCE AMENDING THE VILLAGE CODE AND ESTABLISHING A NEW TITLE ENTITLED DEVELOPMENT AND CONSTRUCTION FEES.* This item with minor verbiage changes will be placed on the December 19, 2005 Village Board meeting agenda for consideration.

**Executive Session – Personnel** – Trustee Caulfield moved, seconded by Trustee Pierce for the Mayor and Board of Trustees to go into executive session at 8:58 p.m. for the purposes of discussion personnel. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

**Return from Executive Session** – Trustee Porch moved, seconded by Trustee McCarty for the Mayor and Board of Trustees to return from executive session to the open meeting at 9:14 p.m. with **no action taken**. Upon roll call, the vote was:

**YES: 5:** Hanson, McCarty, Caulfield, Pierce and Porch.

**NO: 0.**

**ABSENT: 1:** Turner.

**THE MOTION CARRIED.**

## **ADJOURNMENT**

There being no further discussion, Trustee Porch moved seconded by Trustee McCarty to adjourn the regular meeting of the Board of Trustees at 9:15 p.m.

Respectfully submitted,

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Candi L. Rowe RMC, CMC  
Village Clerk