

MINUTES OF THE BOARD WORKSHOP OF THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF WOODRIDGE, ILLINOIS, HELD ON AUGUST 2, 2007 AT THE VILLAGE HALL

I. CALL TO ORDER

Mayor Murphy called the Workshop of the Mayor and Board of Trustees of the Village of Woodridge to order at 7:37 p.m.

II. ROLL CALL

Upon roll call by Clerk Nystrom, the following individuals were:

Present: Trustee Kagann, McManus, Banks, Beavers, Curran, Mayor Murphy and Clerk Nystrom.

Absent: Trustee Pittinger

Staff Present: Administrator Perry, Assistant Administrator Halik, Attorney Good, Chief Herron, Ms. Dannenberg, Mr. Bethel, Mr. Alwin, Ms. Cedillo and Ms. Vicario

III. ACTIVE AGENDA

Sound Wall

Mayor Murphy recognized Administrator Perry for the purpose of proceeding.

Administrator Perry indicated that roughly two years ago, the Village started looking at the request from residents for the construction of a sound wall on the north side of I-55 between Woodward Avenue and Lemont Road. Mr. Perry indicated that there have been several meetings that have involved the Board for guidance on the parameters under which the Village would participate in this project. Mr. Perry called on Chris Bethel, Director of Public Works to provide an update.

Mr. Bethel summarized the discussions concerning the sound wall at the previous workshops and presented the revised costs and related information which is attached to these minutes as **Exhibit A**.

Mayor Murphy noted that there are several questions for the Board regarding the project description that Mr. Bethel has summarized. Mayor Murphy stated that the first question is what the cost participation on the part of the Village will be and the cost for the residents. He indicated that the second question would be whether the residents would agree to sign the waiver of objection to the Special Service Area (SSA) and any other legal documents that might be necessary. Mayor Murphy explained that the previous Board agreed to a 50/50 cost share between the Village and the residents, but this was when the total shortfall was estimated

at \$100,308. He noted that the Village is now looking at a substantially larger amount of \$316,354 cost for the Village and \$316,354 to the residents.

Mayor Murphy stated that he had a few questions before opening the floor to questions from the Board. Mayor Murphy stated that the waiver of objection to the SSA would be expected from the residents by September 7, 2007. He then asked what the time frame is for the Village to enter into an Intergovernmental Agreement with the Toll Highway Authority?

Chris Bethel answered that the intention is to bring forward a draft Agreement to the Board on August 16, 2007. He stated that if the Board approved that Agreement, staff could then present it to the Toll Highway Authority for consideration at their September Board Meeting.

Mayor Murphy asked that if the Village enters into the Agreement with the Toll Highway Authority and then at the deadline for signed waivers of September 7, 2007 there is not a 51% or more of the residents signing the waiver for the SSA, would the agreement with the Toll Highway Authority be moot?

Mr. Bethel indicated that the Village could make the agreement contingent upon Attorney approval.

Attorney Good explained that it would be a two part agreement between the Village and Toll Highway Authority. He explained that because funding from a number of other parties is involved, including Gallagher & Henry, the Village and the Tollway, and the Federal government, there would be a number of conditions, the nonoccurrence of any, would make the contract null and void. He further explained that all monies must be received or the project would not go forward, including the creation of the SSA as one of the conditions. He stated that as an attorney he cannot advise the fronting of any monies or the building of a sound wall without another important condition, which is in addition to the necessary waivers to create the SSA, that 100% of the residents in that area, would also need to sign a release of liability. He would propose that the release would relate to the Village, Gallagher & Henry and the Toll Highway Authority. Attorney Good further explained that even if we met the requirements to create the SSA, if only one resident fails to sign the release of liability, he would not authorize the agreement going forward.

Mr. Perry stated there is one area of clarification that in all likelihood the Village would have to design the agreement for construction prior to receipt of any confirmation of Federal Funds, so the Village may be at risk for receipt of the Federal Funds even though we have received assurances that it is being supported by Congresswomen Biggert's office. He indicated that it is a reasonable expectation that these monies will be received.

Mayor Murphy asked that part of the new project is the western berm, which states that the cost of the berm is being paid by Gallagher & Henry in the amount of \$105,000. Mayor Murphy asked what the likelihood is of that happening? Mr. Perry stated that we are reasonably confident but have no sign off on that. He stated that this is one of the things we can tie up in the next 30-40 days before everything comes to a head in September with the meeting of the Toll Highway Authority. He hopes by then having not only an agreement, but an implementation plan that will bring this plan to fruition, hopefully by the end of 2007.

Mayor Murphy asked if the Village is able to fund this new shortfall of \$316,354.

Mr. Perry indicated that this would require the Village to reprioritize within the budget. The commitment of staff and the Board is to continue to meet our objective of reducing the residential tax burden and providing for reduction in our tax rate on a continuing basis.

Questions from the Board

Trustee Curran asked if the SSA is an additional cost.

Attorney Good stated that there is a cost for the legal requirements of creating the SSA itself. He stated that if bonds are issued you have a large amount of bond issuance costs. Attorney Good explained that staff is proposing not to issue bonds, but instead, there would be a maximum rate levied and that would in essence be used as collected to reimburse the Village for monies the Village has fronted. He indicated that this is similar to the SSA that was formed for Seven Bridges to provide for the maintenance of storm water improvements.

Trustee Curran asked what guarantee does the Village have on repayment with an SSA, and how does that work?

Attorney Good indicated that it is enforceable and that it shows up as a line item on a property tax bill. He explained that if those monies are not paid, the County Collector will be sure they are collected.

Trustee Curran indicated that the Board had discussed in the past a 100% commitment in terms of waivers and the costs being paid through the water billing process; where the resident would sign an agreement and pay the costs through their water bill. Is the SSA a more enforceable way to collect the monies than through the water bill?

Attorney Good answered that the SSA is more legally secure since it gets spread across 100% of the properties in the benefited area and since it appears as a property tax line item, the nonpayment of that amount could result in the loss of a person's ownership in the property.

Trustee Beavers asked that if someone sells their home, is this SSA transferable?

Attorney Good answered that yes, it is levied across the property, not against an individual.

Trustee Curran asked if this is similar to when a new subdivision has additional costs when the developer will charge fees for roads and improvements?

Attorney Good explained that some subdivisions have back-up SSAs created but not yet levied taxes to fund repair and replacement of various improvements. He stated that it is used pay for public improvements so the developer doesn't have to do it. He stated that SSAs are used to provide for special public services.

Trustee Curran asked for clarification that an SSA area would be limited to what could be supported by evidence or data that these are the affected properties.

Attorney Good said yes, that is the basic principle.

Trustee Curran asked if it was correct that we can't risk the unenforceability or being challenged in court, by trying to expand the SSA to include more properties in that subdivision, if we couldn't show that they were benefited.

Attorney Good said yes, unless that property owner signed a waiver.

Mayor Murphy asked if a 5% interest rate on the SSA loan amount would essentially provide a 50/50 split between the Village and the benefiting properties?

Mr. Bethel indicated yes it would.

Questions from the Public

Mayor Murphy opened the floor to questions and comments from residents and guests that are focused on the new revised plan, Village participation in the amount of \$316,000 plus, resident participation \$316,000 plus, and questions or comments on the waiver of objection to the SSA and legal waiver.

Geri Dominic, 9131 S. Somerset Lane, stated that in the past she was told that the Village has no legal liability, so why are we now concerned with a waiver.

Mayor Murphy stated it is because residents, such as Ms. Dominic, have threatened litigation against the Village.

Attorney Good indicated that it is absolutely correct that there is no liability to the Village, but regardless of that position, any homeowner can file suit and the Village will have to expend funds to dismiss it.

Ms. Dominic said that by signing the waiver, it is protecting the Village, correct?

Attorney Good indicated yes, we are protecting the Village, and anyone contributing funds to the project. Attorney Good stated that this includes Gallagher & Henry, and that he will be contacting the Toll Highway Authority's counsel to see if they want to be a party to the waiver as well.

Ms. Dominic asked if she is correct in that Gallagher & Henry is contributing on behalf of the Smoter Subdivision only?

Mr. Perry stated that they are putting in a portion for the Smoter Subdivision.

Ms. Dominic stated then, that she would think the waiver would be for the Smoter subdivision and not for them.

Mr. Perry asked if Ms. Dominic understood the difference between the two – the waiver and the release.

Ms. Dominic asked for an explanation.

Attorney Good explained that the waiver of objection needs to be signed in order to create the SSA itself. He stated that a certain number of signatures are required by statute to create the SSA and the waivers are signed so there can be no objection or challenge to the SSA.

Attorney Good explained that the release or legal waiver refers to a liability release and his view is that there won't be any litigation if the parties are all putting in money. He stated that, unless there is a complete release to the parties who are putting in money, he is not going to recommend going forward.

Geri Dominic expressed her concern over the fairness of the cited 46 benefited properties paying the cost. She believes the 14 properties in the Smoter Subdivision should be a part of the SSA as well. She also stated that eleven of the 46 benefited properties have not gotten their contribution of \$26,000 from the Tollway. She stated that that \$26,000 per eleven properties could reduce the cost shared by the residents and the Village.

Mayor Murphy commented that the plan we have before us is the only plan, there is no other plan. Mayor Murphy indicated the Tollway would say that you don't meet the criteria and they shouldn't even be contributing, but nonetheless, they have chosen to do so. Mayor Murphy said that there are a lot of Woodridge residents who might say that the Village of Woodridge doesn't have the responsibility, but nonetheless, if it is this Board's pleasure, we are going to be participating in the amount of \$316,354. He stated that he understands what Ms. Dominic thinks should be included and not included and he thinks the Tollway

would have a different view on that. Mayor Murphy indicated that the bottom line is you don't meet the criteria in that area to begin with, so the discussion of the dollar amounts is neither here nor there. Mayor Murphy explained that his point is that this is the plan that we have before us tonight and while we will entertain questions about the plan, we are looking for feedback. Mayor Murphy asked Ms. Dominic the following questions:

1. Does she support the Village contributing in the amount of \$316,354 in this plan?
2. As a resident, does she support the residents in that area funding their share in the amount of \$316,354?
3. Does she favor the SSA waiver and the legal waiver?

Mayor Murphy stressed that this is the feedback that the Board needs, and if the residents are not interested in funding their share or signing the waiver or releases, then the question to his colleagues on the Board is moot.

Ms. Dominic said she can't sign a waiver without having her attorney execute it. She stated she is currently in litigation with Gallagher & Henry. She supports the residents and Village contributing.

Mr. Perry stated that it is our determination that, if we don't come to an agreement immediately that we can take to the Tollway and finalize with our residents as well, we are not going to be able to finalize a deal at all.

To clarify Ms. Dominics answers, Mayor Murphy again asked Ms. Dominic the questions. She then deferred the questions on supporting the waiver of objection to the SSA, supporting the legal release and support of resident funding to her attorney.

Mayor Murphy indicated that for the time being he will have to put her answers in the category of no and further stated that he has no alternative.

Robert Mathis, President of the Home Owners Association, South Farmingdale and Vicente Community, residing at 1215 S. Somerset Lane, stated that he has reviewed the information, has mixed feelings, but it is what it is. He stated that he would rather go forth than be subjected to the elevated noise level and economic impact that increasing noise levels bring due in part to the sound wall installed on the south side of the expressway which has resulted in increased noise levels. Mr. Mathis stated that they have taken the pulse of the residents on their willingness to share the funding shortfall with the Village. They are not happy about it, but they are optimistic about the proposal and are in favor of going forward.

Mr. Mathis indicated they have three things they are asking. He asked what the options are for surveying those homeowners not within the 500 feet of the highway to participate in the SSA. Second, he indicated they would like the opportunity to review the SSA proposal with their own legal counsel. Thirdly, he

asked if there will be any future maintenance fees or would someone else have the responsibility for this.

Mr. Mathis indicated that given the feedback he has received from the residents and the good work that the Village Board, Mayor and Public Works Director has done, that he would hate to get this far and have the project fail. Given all the options, Mr. Mathis said the majority of the members of the HOA are in favor of going forward.

Attorney Good indicated that they are welcome to have anyone look at the SSA.

Mr. Perry indicated that the SSA only relates to those properties within the 500 feet. Mr. Perry said residents outside of the 500 feet are welcome to make a contribution to the project for use in reducing the tax levy. He indicated that this would be totally voluntary. Mr. Perry stated that the maintenance question will have to be worked on or negotiated by having tri-party discussions between the Village, Toll Highway Authority and IDOT in order to minimize or hopefully eliminate maintenance responsibilities to the Village or residents. He stated that it is one of the risks we still run and one of the reasons Mr. Bethel is suggesting the wall be placed in this location, because it would be on IDOT property, except for the berm.

Mr. Mathis asked what the height of the sound wall would be.

Mr. Bethel indicated it would depend on the topography but somewhere between 15 and 18 feet.

Trustee Curran suggested that if there are residents who may want to contribute to the project, would we be able to do this through the water bill?

Attorney Good would defer to staff if we can impose additional charges on water bills. He stated that if the residents pay they never would have to enforce. Staff would have to determine if it is worthwhile to do. Attorney Good suggested to Mr. Mathis attaching an annual fee to the HOA to go toward a credit to the homeowner's liability each year.

Mr. Mathis indicated they are not looking for an arrangement like that with the homeowners, but indicated that that he would raise the issue with the homeowners.

Trustee Curran thanked Mr. Mathis and the residents for the hard work they put into this issue.

Juan Garcia, residing at 9127 S. Somerset Lane, stated that he does support the plan and is willing to sign the waiver and release. He wanted to state for the record that he feels it is unfair for the residents to have to pay for the

soundwall.

Geri Dominic asked that with an SSA, does the Village always require that waivers and releases are signed for developers?

Attorney Good stated that the process of using waivers is done quite often.

Geri Dominic said she thinks the plan is doable. She expressed her concern again to use all of the benefited properties, including the Smoter Subdivision. She feels that this is another slap in the face.

Attorney Good expressed a couple of comments. He stated that in these comments he means no disrespect to anyone. He stated that the Village can view this as a slap in that, out of all of the parties involved in this fiasco, the Village is the least liable. Attorney Good said the Village did not determine or require anyone to move into the Village, nor did the Village direct anyone to a specific subdivision or lot and say you need to buy your home there. Attorney Good stated that the Village did not go through the subdivision with the builder and determine a lot. Attorney Good also explained that the Village did not participate in any contractual negotiations. He also noted that the Village did not even determine to build the expressways; they were built by either by IDOT or the Illinois Toll Highway Authority. Attorney Good stated that the Village did not determine to expand either of those roads. He went on to say that it is not the Village's regulations that precluded the building of those soundwalls; but that these are decisions made by IDOT and the Illinois Toll Authority. He stated that when plans were shown to all communities along the corridors, the Village urged the Illinois Toll Authority or IDOT to install sound walls on behalf of the residents. Attorney Good stated that out of all the parties involved here, whether the developer, resident, Toll Highway Authority or IDOT, the Village has the least culpability from the moral standpoint, because we had no role in any of those processes, whether purchasing a lot, building the expressways, expanding them, or determining who is entitled to have a soundwall. Attorney Good concluded by saying the only thing the Village did in the instance of the roads being built or expanded, was encourage IDOT or the Toll Highway Authority to install soundwalls.

Weston Olezyk, residing at 9135 S. Somerset, stated that Woodridge is a great city to live, but this is one of the pitfalls. He indicated that he appreciates all of the hard work put into this project by the Village. Mr. Olezyk said he would like to see the final breakdown of where the money is going, such as to the contractor, materials, etc. He also expressed his hopes that the Village will be more involved in new subdivisions that will be built near any expressways. He suggested an Ordinance where there will be a requirement for the developer to construct soundwalls in similar situations.

Attorney Good indicated that the contracts are public documents and anyone is free to look at them, and that they will show the amounts being paid to contractors. He indicated he has no problem with them seeing the contracts when they are ready for Board approval.

Mr. Perry indicated that the residents will be signing the waiver and release before we have the final numbers. Mr. Perry explained that it is almost impossible to do otherwise. He stated that if they cannot progress with this in the next 30-40 days, we will not be in a position until we finalize the toll authority. Mr. Perry also stated that most of those numbers are bids and we don't know if we will have them in the order that you like. He stated that the Village will also provide the information each year.

Geri Dominic asked about cost overruns; is the Toll Highway Authority picking up cost overruns?

Mr. Perry indicated that the Tollway did not confirm picking up the overruns. He stated that the Tollway is only committed to the \$910,000. Mr. Perry indicated that at the May meeting, the Tollway stated that perhaps it was not accurate for one employee making that statement on behalf of the Tollway.

In response to Attorney Goods comments, she said most of it is true but that there should have been some disclosure so people were aware. She stated she knew that the expressway was there but did not know of the expansion or soundwall on the south side of the expressway.

Attorney Good stated that what is correct under the law is that the village does not get involved in doing due diligence for individual homeowners buying property. Attorney Good asked Mr. Bethel and Emily Dannenberg if they knew how long the plans for expansion have been on file with the Toll Highway.

Emily Dannenberg indicated at least 8 years.

Attorney Good stated that he would do due diligence if he saw an expressway he would call and check for plans and look through the records. He indicated that there is no duty of disclosure, you need to do this yourself.

Geri Dominic expressed again that she thinks the Village did not protect them by not disclosing the expansion project. She said she will take the waiver to her attorney to review and if he has questions or issues, she will have him contact Attorney Good.

Attorney Good said again, that on the issue of the waiver, he wants to be perfectly clear, that it will not be negotiated to alter the language; it will be one form that has to be signed by all. Attorney Good indicated that he will do a waiver that he believes is necessary to protect the Village's interest. Attorney Good stated that, if

Ms. Dominic has a conflict and cannot sign the waiver, then there is a problem for the project.

Robert Mathis brought up the environmental issues of the expressway, and suggested the Board require the developer to put in a berm or sound wall before they can build residential homes by an expressway. He suggested the Village pass an ordinance to act on behalf of the residents.

Attorney Good indicated that this Village staff, without ordinances in place, compels developers to do things all the time to improve the circumstances of property.

Richard Jaczak, residing at 1231 S. Somerset Lane, indicated that he does not have a problem signing the waiver on behalf of the Village. Mr. Jaczak requested that the Attorney leave Gallagher & Henry and the Tollway out of the waiver.

Attorney Good stated that residents cannot expect that to be the case.

Sam Bologna, residing at 9089 Westminster Drive, stated that he lives in the Vincente Subdivision. He asked why Town & Country is not involved in putting up any monies?

Mr. Perry stated that the Village has no way to compel them to contribute and has no leverage with them.

Mr. Bologna then stated that someone should be talking to IDOT to put up some signage to slow down traffic. He stated that engine braking for trucks is the worst when they are slowing down to merge onto I-355.

Direction from the Board

Mayor Murphy turned to the Board to get direction on whether to go forward with an Intergovernmental Agreement with the Tollway for the August 16, 2007 Board Meeting Agenda. He asked for the Board direction on the following points:

1. Is the Board comfortable with 50/50 cost sharing with the residents?
2. Does the Board agree with requiring the waiver of objection for the SSA?
3. Does the Board agree with requiring 100% of the residents to sign the legal waiver to include all parties contributing funds to the project
4. Does the Board agree on the 5% interest on the loan amount for the residents?

Mayor Murphy said he is a proponent to going forward. Mayor Murphy stated that of the residents said that much of what the attorney said was try. Mayor Murphy indicated that he believes all of what the attorney said is true. Mayor Murphy noted that the additional lane is what compels this concern, because the road was there when these homes were purchased, people had the opportunity to

see the road was there when the homes were purchased. Mayor Murphy stated that they may not have been aware of the additional lane being added but the additional lane was added after the Village approved Gallagher & Henry. Mayor Murphy noted that the Village does have careful scrutiny of review plans 100% of the time and that the plans that were scrutinized for the Gallagher & Henry development are the plans for the homes that people bought. Mayor Murphy stated that the people did not know that the additional lane was going to be there and that is what has caused the additional concern.

Mayor Murphy indicated that he has heard what the residents had to say, but he has also heard from other residents that say they don't think it's fair for the Village of Woodridge to be paying, using a quote from earlier tonight, their freight, and these residents are not happy about it. He stated that these residents are saying they don't think it's fair. Mayor Murphy indicated that the Village Attorney said earlier that the Village has the least culpability, but he believes the Village has no culpability but the Village is willing to help and that is why he is a proponent. Mayor Murphy stated that the Village knew no more than you did about that road when the resident bought those homes. Mayor Murphy also noted that he supports the \$316,354 cost sharing, but subject to the waivers; the SSA waiver by more than 51% and 100% of the legal waiver for all parties providing funds, which includes Gallagher & Henry, Highway Toll Authority and the Village of Woodridge and as it relates to feedback on the loan interest amount looking at 50/50 cost sharing, that the loan interest rate should be 5%.

Mayor Murphy asked for feedback from Trustees.

Trustee Curran stated that he is in favor of the plan. He stated that this is a complex problem where not all of the parties will walk away 100% happy, but hopefully once the wall is up and the quality of living improves the happiness will improve as well. Trustee Curran stated that in taking Gallagher & Henry out of the equation, due diligence would require the Village to require the residents to front the money that Gallagher & Henry would have contributed. He further stated that he is in favor of the waiver of objection to the SSA by more than 51% and the 100% of signed legal releases. Trustee Curran stated that he is comfortable with either 3% or 5% interest rate on the loan.

Trustee Kagann stated he is comfortable in proceeding with the waiver for the SSA at 51% or more with all parties involved and he is comfortable with the 5% interest rate on the loan.

Trustee Beaver stated that she is in favor of the plan as stated with the 5% loan rate and all parties involved in the legal release.

Trustee McManus stated that he is in agreement with the cost sharing agreement. He stated that time is of the essence. He agrees with the 5% interest rate, the 50/50 cost share with the waiver of objection to the SSA at 51% or more and the

release waiver at 100% with all parties involved. He asked if there could be the option to pay all at once to avoid the interest charges.

Trustee Banks indicated that she can empathize with the homeowners because she bought her condo under similar circumstances but that is the choice that she made. She stated that she is in favor of the 51% waiver, release of liability at 100% and she is in favor of moving forward with this process.

Mayor Murphy inquired of Mr. Perry if there is any additional feedback needed from the Board and asked what the next steps will be.

Mr. Perry indicated that no additional direction is needed. He indicated that the Village will do its best work to go forward to implement this. He stated that staff will draft an Intergovernmental Agreement for the Board to sign off on at the August 16, 2007, Board Meeting that the Village can present to the Tollway for them to present at their September meeting. Mr. Perry indicated that the Village will be negotiating IDOT on the location and maintenance of the soundwall. Mr. Perry also stated that the Village will be working with the residents to get the waivers and information to the residents so we can get the signed waivers back from the residents by early September so we can present a united front to the Tollway Authority by the middle of September.

Mayor Murphy complemented the staff in helping us get to this positive outcome tonight.

IV. ADJOURNMENT

Mayor Murphy entertained a motion to adjourn the Board Workshop. The motion to adjourn was made by Trustee Curran and seconded by Trustee Kagann.

Ayes: Trustees Banks, Beavers, Curran, Kagann and McManus

Nay: None

Absent: Trustee Pittinger

All in favor: Motion is approved.

Mayor Murphy adjourned the Workshop session of the Mayor and Board of Trustees at 9:32 p.m.