

**VILLAGE OF BANNOCKBURN
BOARD OF TRUSTEES
DECEMBER 9, 2013
MEETING MINUTES**

1. **Call to Order.** President Barkemeyer called the meeting to order at 7:04 PM.

President: James Barkemeyer

Trustees Present: David Ansani, James Boyle, David Korner, Daniel Orth III, Frank Rothing

Trustees Absent: Timothy Fisher

Also Present: Village Clerk Estelle Raimondi, Village Manager Maria Lasday, Finance Director Linda McCulloch, Village Police Chief Ron Price, Village Engineer David Gewalt, Village Counsel Vic Filippini, Assistant to Village Manager Ryan Mentkowski

Visitors: John Lehneman (AT&T)

2. 01-12/09: **Pledge of Allegiance.** President Barkemeyer led everyone in reciting the Pledge of Allegiance.

3. **Visitors' Business.** None.

4. 02-12/09: **Consider Approval of the Annual Tax Levy Ordinance of the Village of Bannockburn, Lake County, Illinois for the Fiscal Year Beginning May 1, 2013 and Ending April 30, 2014.**

Trustee Korner moved, seconded by Trustee Ansani, to approve Ordinance 2013-23, the Annual Tax Levy of the Village of Bannockburn. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

5. 03-12/09: **Consider Approval of the Tax Levy Ordinance of Village of Bannockburn Special Service Area Number One, Lake County, Illinois for the Fiscal Year Beginning May 1, 2013 and Ending April 30, 2014.**

Trustee Rothing moved, seconded by Trustee Orth, to Approve Ordinance 2013-24, the Tax Levy Ordinance of Village of Bannockburn Special Service Area Number One. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

6. 04-12/09: **Consider Approval of the Tax Levy Ordinance of Village of Bannockburn Special Service Area Number Two, Lake County, Illinois for the Fiscal Year Beginning May 1, 2013 and Ending April 30, 2014.**

Trustee Rothing moved, seconded by Trustee Korner, to Approve Ordinance 2013-25, the Tax Levy Ordinance of Village of Bannockburn Special Service Area Number Two. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

7. **05-12/09: Consider Approval of the Tax Levy Ordinance of Village of Bannockburn Special Service Area Number Seventeen, Lake County, Illinois for the Fiscal Year Beginning May 1, 2013 and Ending April 30, 2014.**

Trustee Orth moved, seconded by Trustee Korner, to Approve Ordinance 2013-26, the Tax Levy Ordinance of Village of Bannockburn Special Service Area Number Seventeen. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

8. **06-12/09: Consider Approval of an Ordinance for the Abatement of a 2013 Tax Levy (Series 2006 General Obligation Bonds).**

Trustee Orth moved, seconded by Trustee Rothing, to Approve Ordinance 2013-27, an Ordinance for the Abatement of the 2013 Tax Levy (Series 2006 General Obligation Bonds). On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

9. **07-12/09: Consider Approval of an Ordinance for the Abatement of a 2013 Tax Levy (Series 2010 General Obligation Bonds).**

Trustee Orth moved, seconded by Trustee Korner, to Approve Ordinance 2013-28, an Ordinance for the Abatement of the 2013 Tax Levy (Series 2010 General Obligation Bonds). On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

10. **08-12/09: Consider Approval of a Waiver to the Village Board Appeal Process Regarding the Following Architectural Review Commission Applications:**

- **Consider Approval to Remove and Replace an Existing Wall Sign with a New Wall Sign at H&R Block in the Bannockburn Green Retail Center, Located at 2551 Half Day Road, Bannockburn, Illinois, Submitted by 4MC Corp, on behalf of H & R Block, and AP POB Bannockburn, LLC.**

Trustee Rothing moved, seconded by Trustee Boyle, to Approve a Waiver to the Village Board Appeal Process. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

11. **09-12/09: Consider Approval of a Resolution Amending the Flexible Spending Account Program to Remove the Grace Period Provision and Begin the Optional \$500.00 Carryover Provision for Contract Periods Beginning on or after February 1, 2013.**

Trustee Orth moved, seconded by Trustee Boyle, to Approve Resolution 2013-R-36, a Resolution Amending the Flexible Spending Account Program to Remove the Grace Period Provision and Begin the Optional \$500.00 Carryover Provision for Contract Periods Beginning on or After February 1, 2013. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

12. 10-12/09: Consider Approval of an Ordinance Amending the Bannockburn Zoning Code Regarding Personal Wireless Services Facilities.

Village Manager Lasday advised that John Lehneman from AT&T was present for the discussion. Village Attorney Filippini stated that AT&T does not believe that the Village has authority over the property, but he noted that Illinois courts have disagreed with that. Although this is an Illinois Department of Transportation (ILDOT) Right-of-way, that does not mean that the Village is lacking in authority because it is also within the Village of Bannockburn boundaries. He explained it is always possible for two entities to have jurisdiction in a situation like this, and when that happens an applicant does not get to choose which regulations it wishes to comply with, but must comply with all regulations. The Village regulations as proposed under the draft Ordinance being reviewed do allow the installation that is being contemplated along the right of way and will permit the Village to consider further amendments to that, either now or in the future, with or without a hearing. A public hearing has been completed in front of the Plan Commission/Zoning Board of Appeals (PCZBA) and this is a matter pending before the Village Board and the Northwest Municipal League. The proposed amendment would only allow an installation east of Waukegan Road and within 500 feet from the center line of Route 22 but would allow AT&T to make the installation.

Village President Barkemeyer asked if the box had been installed. John Lehneman from AT&T advised that the box is partially installed, and AT&T wants to activate that box and add the remaining equipment. He further stated that after the last meeting he had gone back to AT&T and asked if anyone had ever pulled two permits for one installation and no one had ever done that. He was told that many times a copy of the permit is given to the municipality so that they are aware of what is occurring but there is no history of pulling two permits for the same spot.

Trustee Orth asked if they were denying that the municipality has the right to require a permit. Mr. Lehneman advised that AT&T had been putting up equipment in right of ways for 100 years and no one could ever recall applying for two permits. He said unless there was a joint agreement between Bannockburn and ILDOT there was no reason for AT&T to pull a Bannockburn permit.

Trustee Korner stated that the proposed ordinance would allow for AT&T to put up equipment in that one area but that nothing further would be decided at this time. Mr. Lehneman said he understood that, but stated that it is amending a section of the code that does not apply to AT&T since it applies to accessory structures or uses, and as defined in the code this installation does not satisfy any of the requirements for being an accessory structure. Trustee Korner asked if AT&T does not think Bannockburn has any say because this is an ILDOT right of way, then why is this issue before the Board.

Mr. Lehneman advised that while over the next few years 1 to 3 installations are proposed for Bannockburn, but hundreds are planned for the area within the Northwest Municipal League. And they do not want to set a precedent of two permits whenever an installation is going into a right of way. AT&T does not believe it needs to comply with the zoning code

and apply for a permit under the zoning code of a municipality. Village Attorney Filippini advised that AT&T did not typically get local zoning approval for traditional equipment. It is true that in most municipalities that installation equipment such as poles, sewer lines and water mains are exempt from local zoning ordinances by local zoning ordinances, not by state law. It is also clear under the Illinois Municipal Zoning Enabling Act that wireless service facilities are specifically authorized for regulation by municipalities in their zoning code. He further noted that zoning is related to the property, not the usage or the personage.

Mr. Lehneman advised that he would not recommend that AT&T apply for a permit since they are not seeking an accessory use and it is not an accessory structure and also because the portion of the code being amended does not apply to wireless antennae but applies to general antenna. The code distinguishes between two types of antenna- wireless antenna and all other kinds of antennae. There is a separate section of the Bannockburn zoning code that pertains to wireless antennae and that is not touched by the proposed ordinance. This ordinance amends the section of the code that addresses satellite dishes or other general purpose antennae. He stated that if this section applies to wireless, then wireless is a permitted use in a residential area because the only antenna that is a special use in this section is an antenna installed in a retail area. The antenna AT&T is proposing is in a retail area. So the ordinance does not apply, and if AT&T proceeds as if the ordinance does apply there will be significant confusion in the future.

Village Attorney Filippini advised that if AT&T does not want the proposed ordinance passed then there is no reason for the Village to act on it. It was an accommodation for AT&T. If the Board makes something specifically authorized under a specific section of the ordinance then it is authorized and it is only authorized in that context. The reason why it is being done under this section is because the draft ordinance is intended to carve out a limited exception with a right of way use, which is what it provides. That is why it is included in this section, not the wireless service section. He said that for an applicant, it does not matter which section of the code it is included under as long as it is there.

Trustee Korner stated that he understood that AT&T wanted to eventually have additional installations in the Village, but that the only place with an ILDOT right of way is at Waukegan Road and Route 22. Trustee Korner said that if AT&T takes the ordinance as drafted right now, they are already working with ILDOT on the proposed installation in the right of way. In the future, AT&T will be asking to go within the Village, where no one has any infrastructure set up.

Mr. Lehneman stated that the draft ordinance carves out the ability to place this kind of antenna within an ILDOT right of way. The location today is already a permitted use because it is in a retail district. There is no reason to put the ordinance in a place that has nothing to do with wireless antennae. He is concerned about applying for a permit under a section that does not apply. He was proceeding under the understanding that is a permitted use in the retail district and that since it is a permitted use that the proposed ordinance would be in the section that deals with proposed antennae. The Bannockburn zoning code says that the code applies to zoning lots, it defines zoning lots as property within the lot line, and it defines lot line as borders a right of way as starting at the end of the right of way. For the

gas station, the lot line is Waukegan Road and Half Day Road. But for zoning purposed under the zoning code the lot line doesn't start until the end of the right of way.

Village Attorney Filippini advised that the right of way is not in fact a zoning lot. The reason why this proposed ordinance is located under the accessory structure section was specifically not to have these regulations tied to a zoning lot. In the language there is no connection to the zoning lot for this particular amendment. That was done to accommodate AT&T in this situation.

Village President Barkemeyer recommended that this issue be postponed until the second meeting in January and that if Mr. Lehneman wanted this to be considered again then he would have to make that request. The Board agreed with this recommendation and the item was held over until AT&T is ready to come back.

13. 11-12/09: Village Engineer: Top Project List

- **Stirling Circle.** Village Engineer Gewalt stated that landscape plans for Stirling Circle have been reviewed by Board. There is an invoice for \$6,368.81 and that seems high. However some of the work included in that invoice has not been done yet. So the Village is not obligated to pay the full amount. Trustee Korner stated he thought that the bill was high, and reflected 50 hours of work. He does not believe what the Village received reflected that many hours of work. He stated that we have a plan in place, and we do owe them something, but \$6,000 seems high. We also have another plan that has been suggested, and we may want to give plans to residents at Stirling Circle so they can evaluate both plans. But since these plans have been paid for, they should be forwarded to the residents. It also needs to be determined who will show plans to residents. Village Engineer Gewalt suggested a narrative including plantings could be supplied with the plans. Trustee Korner said that a meeting should be set up so that things could begin to move forward. Village Engineer Gewalt noted that the services of 3-D Design were more extensive than Brickman as alternate views, including a panoramic view, were illustrated. He suggested that they be given a partial payment as they are still doing work in the Village. Trustee Korner expressed concern about additional bills from 3-D Design since they would have to be available to explain plans to residents and incorporate requested changes. Village Engineer Gewalt also stated they would need to come in for staking during construction if the 3-D plan was accepted. Trustee Korner stated that it is unclear the scope of the services billed. Trustee Orth and Trustee Rothing also expressed concern about the size of the bill.
- **Comprehensive Plan.** Village Engineer Gewalt noted that the pre-hearing Comprehensive Plan maps were nearly complete.
- **2014 MFT Projects.** Village Engineer Gewalt inquired about status of 2014 MFT projects. Finance Director McCulloch stated that Dunsinane is in the budget, assuming no more utility work needs to be completed. Village Manager Lasday noted that we will be asking for joint bids for the road work with Lincolnshire and Highland Park in order to receive the best pricing and so the scope of work needs to be determined quickly. Dunsinane will cost less than Bridle and Lakewood. Village Attorney Filippini stated that if we have concerns about sequencing of the work we may want to clarify the project schedule.

- **Lake Michigan Water Audit.** Village Engineer Gewalt reported they did a preliminary water audit assessment. Because of the water main break at the BLOP III building within the last month, the water main break on Waukegan Road project, the flushing on Cedarcrest, and because ILDOT watering crews may have used unmetered water, the unaccounted for flow has gone up over 10%. It has gone from 4% last year to over 10% this year. We will have to take measures to correct this. One issue is when water meters are given to construction companies and they are returned damaged there is no way to determine the accurate amount of water use. Village Engineer Gewalt recommended that when a broken meter is returned that water usage should be estimated higher to compensate. While residents generally notify the Village when they see water coming out of the ground, with one water main break it was in a remote area and had not been seen. Water purchases and sales may be examined on a quarterly basis next year to better monitor usage. He noted the report will need to be ratified in January of 2014 by the Board. The cost of all of the water lost in the Village is approximately \$40,000.

14. 12-12/09: Village Police Chief.

- **K-9 Dex Police Dog.** Village Police Chief Price thanked all who expressed sympathy on loss of K-9 Dex. He asked the Board to consider if the Village would like to add a new police dog to the department, and added that residents have already donated funds to the Police Department for a new K-9. Officer Lemmer has already been in contact with Tops Kennels, and there is a possibility we can get another dog. A new dog would probably cost approximately \$4,000 to \$5,000. Officer Lemmer has discussed this with his family and Tops Kennels and would like to have another dog. Grant money may be available, and we usually get at least \$5,000 in grant money for a police dog. Finance Director McCulloch stated that usually the \$5,000 grant covers routine expenses, including food, vet bills, and training. Village Police Chief Price stated that having a dog is an asset to all of Lake County. Additionally, Officer Lemmer is on duty overnight alone, and Dex was always available as an immediate “back up” and provided additional safety for Officer Lemmer. Trustee Rothing and Trustee Orth both support pursuing another police dog.
- **Accreditation.** Chief Price noted that in January the accreditation of the Bannockburn Police Department will be approved by the accreditation board.
- **Dispatching.** Chief Price noted that Deerfield will be increasing their dispatching costs effective January 2014. The increase will be approximately \$1,000 a month and could not be anticipated because Deerfield switched their budget cycle this year to January-December. Although this has not been budgeted for this year they provide an excellent service and having a local department is important.
- **Erehwon Theft.** Chief Price noted that numerous coats were taken from Erehwon but were recovered by Bannockburn Police in conjunction with the assistance of other area departments following the identification of the getaway vehicle. He noted that several suspects were arrested in the attempted theft.

15. 13-12/09: Village Counsel.

Village Attorney Filippini stated that some FOIA forms are being updated for next year to reflect changes in the law. A black line version will be generated so that the differences can be understood and a copy will be provided to Village Staff.

16. 14-12/09: **Village Manager.**

Village Manager Lasday reported that we will be sending a response to the Affordable Housing Notice that illustrates that we feel the community should stay exempt from the Affordable Housing rules. She also generally noted that there are several meetings coming up regarding developments near the Village and it is looking to be a busy time around Village Hall. She noted that Del Mar Utilities submitted a FOIA request today requesting proof of payment of the recapture agreement. She then noted that municipal partnering opportunities are being considered, including for IT services, landscaping, etc. Lastly she noted that commercial waste hauling contract notices were sent out last week and we are in full compliance with the State.

17. 15-12/09: **Village Clerk.**

- **Notice of Pending Destruction of Verbatim Records.** Trustee Orth moved, seconded by Trustee Korner, to Approve the Destruction of Verbatim Records. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.
- **Consider Approval to Not Release Executive Session Minutes.** Trustee Orth moved, seconded by Trustee Ansani, to not Release Executive Session Minutes. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

18. 16-12/09: **Village Commissioners.**

- **Economic Development.**

Trustee Rothing noted that as part of the 700th Anniversary of the Battle of Bannockburn a re-enactment is being planned including competitions, jousting and other activities. We would need to provide tenting and food for volunteers. This would take place at the Open Space. A budget of \$20,000 to \$25,000 would be required. There would also be educational opportunities for the Bannockburn School in conjunction with the event. A special logo should be developed for the event and we may be able to sell shirts and do other fundraising. Activity is planned for September 7th, 2014. There was a general consensus that the budget proposed would be acceptable to the Board for the event.

- **Finance.**

- **Consider Approval of a Payment to the Illinois Municipal Retirement Fund.**

Finance Director McCulloch reported that IMRF stated that their rate of return has been acceptable. Discussion included that return rates are 5-year averaged. Finance Director McCulloch stated that both Sikich and Village Attorney Filippini had remarked in an earlier meeting that if an additional amount is designated for IMRF then we have more funds invested that take a loss if there is a loss or that gain if there is a gain but that once funds are invested with IMRF they are irrevocable. We can designate it within our books and not send it to IMRF, but the action can be reversed by a future Village Board for another purpose. Village Attorney Filippini advised that taking advantage of the interest rate this year probably makes sense given where we have not fully funded IMRF. Trustee Boyle suggested that if we

have extra reserves the Village may want to invest that now and pick up an additional 10% interest. General discussion that IMRF is not fully funded now and that if the Village has money available then this may be the time to put additional funds towards IMRF. Finance Director McCulloch stated that if the Board wanted to put money towards this we could amend the Required Reserve Policy. Village Attorney Filippini stated we may not need to change policy if we will catch up by the end of the fiscal year. Village President Barkemeyer observed at the current interest rate if we put in \$500,000 then we would make at least \$50,000 on that amount and that is earning more than the bank interest rate. General discussion that \$500,000 is a reasonable number given the rate of return and that it is money that has to be spent anyway to fulfill pension obligations.

Trustee Rothing moved, seconded by Trustee Orth, to authorize an additional payment of \$500,000 for pension obligations. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

- **December Bill Submit List.**

The list was presented including amendments for balance due on mileage due to trustees under clarified reimbursement rate, Holland & Knight bill, Morton Salt bill, IMRF and Lake Forest fees.

Trustee Boyle moved, seconded by Trustee Korner, to Approve the bill submit list as amended at the meeting. On a roll call vote the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.

- **November Monthly Financial Budget Report.** Finance Director McCulloch stated that the redemption of the water bonds will require some redistribution within bank accounts to keep balances at acceptable levels. There was also discussion of the date of closing for Dominick's and that Chase bank will also be closing.

19. 17-12/09. **Village President.** No report.

20. **EXECUTIVE SESSION.**

Trustee Orth moved, seconded by Trustee Boyle, to enter executive session for (1) Probable or Imminent Litigation Pursuant to 5 ILCS 120/2(c)(11), and (2) Land acquisition. On a roll call vote, the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Orth, Rothing); Nays: None; Absent: Fisher. Executive Session was entered into at 8:37 PM.

There being no further discussion in Executive Session, Trustee Orth moved, seconded by Trustee Boyle, to exit out of Executive Session. On a roll call vote, the motion was unanimously approved. Ayes: Five (Ansani, Boyle, Orth, Rothing); Nays: None; Absent: Fisher. Executive Session was adjourned at 8:59 PM.

21. 18-12/09. **OTHER BUSINESS.**

Consider Approval of the November 25, 2013 Board Meeting Minutes (Subject to Minor Corrections). No regular session minutes to approve as they were not completed in time for the meeting.

22. ADJOURNMENT.

Trustee Rothing moved, seconded by Trustee Boyle, to adjourn the meeting at 9:00 PM. On a voice vote the motion was unanimously approved. Ayes: Five: (Ansani, Boyle, Korner, Orth, Rothing); Nays: None; Absent: Fisher.