

## VILLAGE OF BARRINGTON HILLS

Minutes of the Regular Meeting of the Board of Trustees  
Monday, January 28, 2013

President Abboud called the Regular Meeting to order at 6:43 p.m. Roll Call.

### Present

Robert G. Abboud, President  
Fritz H. Gohl, President Pro Tem  
Elaine M. Ramesh, Trustee (arrived 7:24 p.m.)  
Joseph S. Messer, Trustee  
Karen S. Selman, Trustee  
Patty Meroni, Trustee  
Harold Gianopulos, Trustee (arrived 8:05 p.m.)

### Guests

Pauline Boyle, resident  
P. Denise Israel, resident  
Jean Maddrell, resident  
Martin McLaughlin, resident  
Rosemary Ryba, Village Treasurer  
Thomas McGuire, Village Attorney  
Jolanta Zinevich, McGuire Associate

Michael Murphy, Police Chief  
Rich Semelsberger, Deputy Chief  
George Lynch, Village Attorney  
Dan Strahan, Village Engineer  
Anna Paul, Planning & Zoning

Trustee Selman motioned to adjourn to Executive Session to discuss pending litigation and matters of personnel at 6:44 p.m. Trustee Meroni seconded. Roll Call.

Ayes: 5 (Messer, Selman, Meroni, Gohl & Abboud)

Nays: 0

Absent: 2 (Gianopulos, Ramesh)

**Meeting Adjourned**

### **EXECUTIVE SESSION**

### **PUBLIC SESSION**

President Abboud called the Public Meeting to order at 8:03 p.m.

## **APPROVAL OF MINUTES**

Trustee Gohl motioned to approve the Minutes of the December 19, 2012 meeting. Trustee Selman seconded. All present said Aye. Messer abstained.

**Motion Approved**

Trustee Gohl made the motion to approve the December 19, 2012 Executive Minutes, Trustee Meroni seconded. All present said Aye. Trustees Ramesh and Messer abstained.

**Motion Approved**

Trustee Gohl made the motion to dispose the Executive Session Meeting Recordings of April 25, 28, 2011. Trustee Selman seconded. All present said Aye.

**Motion Approved**

## **FINANCE – Karen S. Selman**

Treasurer's Report - Trustee Selman motioned to accept the Treasurer's Report for December, 2012. Trustee Meroni seconded. All present said Aye.

**Motion Approved**

Police Pension Board Report - Trustee Selman motioned to accept the Police Pension Board Report for December, 2012. Trustee Gianopulos seconded. All present said Aye.

**Motion Approved**

Overtime Reports - Trustee Selman made the motion to approve the Overtime Report from December 16, 2012 through January 15, 2013 totaling \$6,002.86. Trustee Meroni seconded. Roll Call.

Ayes: 7 (Gianopulos, Messer, Selman, Meroni, Ramesh, Gohl & Abboud)  
Nays: 0  
Absent: 0

**Motion Approved**

Bills for Approval - Trustee Selman motioned to approve the bills for the month of December 16, 2012 to January 15, 2013, totaling \$186,853.39. Trustee Gohl seconded. Roll Call.

Ayes: 7 (Gianopulos, Messer, Selman, Meroni, Ramesh, Gohl & Abboud)  
Nays: 0  
Absent: 0

**Motion Approved**

Baker Tilly Analysis Resolution – Trustee Meroni motioned to approve the Baker Tilly Analysis Resolution. Trustee Gianopulos seconded. Roll Call.

Ayes: 7 (Gianopulos, Messer, Selman, Meroni, Ramesh, Gohl & Abboud)  
Nays: 0  
Absent: 0

**Resolution 13-01 Approved**

Foreclosure & Land Bank Resolution – Cook County is acquiring land that is going into foreclosure. The issue with this is regarding zoning requirements within municipalities. The Village of Barrington Hills wants to preserve our zoning authority on land that gets acquired within the Village. President Abboud will seek further information from Cook County.

## **ROADS & BRIDGES – Patty Meroni**

### Monthly Report

2013 Road & Drainage Program - Preliminary topographic surveys have been completed west of Braeburn Road and a drain tile survey is being reviewed in an attempt to mitigate periodic flooding south of Spring Creek Road. Individual meetings with residents will be scheduled.

Spring Creek Road resurfacing will also include culvert replacements. The 2013 Drainage Design Plans will be completed by February 15, 2013. Permitting by McHenry County and the Army Corps of Engineers will be processed February 15 – March 29, and bids will be let April 2. The proposed road program bids will be let May 16 for presentation to the BOT on May 23.

Private Road Association Meeting - This year's annual meeting will be held in the MacArthur Room in February or March.

Fire Hydrants/Dry Hydrants - As a result of the BCFPD presentation at our last Board meeting, followed by meeting I held with both BCFD and the Fire Prevention Bureau, Dan Strahan has presented a dry hydrant proposal which I submitted to the Fire Prevention Bureau for their review. Due to a unique set of circumstances at 385 Spring Creek Road, including an existing drainage easement for the pond and an open building permit status, VBH is proposing to install a dry hydrant as a part of the road/drainage project.

Algonquin Township Highway IGA Resolution – Tabled to the February 25<sup>th</sup> Board meeting.

## **PUBLIC SAFETY – FRITZ H. GOHL**

Monthly Report – Trustee Gohl presented the monthly report which was included in the packet.

Purchase Police Vehicles Resolution – Trustee Gohl motioned to approve the purchase of two police vehicles. Trustee Meroni seconded. Roll Call.

Ayes: 7 (Gianopulos, Messer Selman, Meroni, Ramesh Gohl & Abboud)  
Nays: 0  
Absent: 0

**Resolution 13-02 Approved**

Surplus Property Disposal Ordinance – Trustee Gohl motioned to approve the Surplus Property Disposal Ordinance. Trustee Gianopulos seconded. Roll Call.

Ayes: 7 (Gianopulos, Messer Selman, Meroni, Ramesh Gohl & Abboud)  
Nays: 0  
Absent: 0

**Ordinance 13-01 Approved**

Union Arbitration Panel Ruling – In 2009, the Patrol Officers, not our Sergeants, Lieutenants, Dispatch or Chief, signed Card Check cards to form a Union. In November of 2009, the Patrol Officers send the Board a letter stating that their salaries and benefits not be changed until negotiations were finalized. President Abboud agreed and their salaries and benefits were frozen. Negotiations started in the Fall of 2010. When the rest of our employees received compensation adjustments in 2010, the Officers filed an unfair labor act against the Village and the Village is still in litigation.

The Village attempted to work through negotiations and produced a substantial amount of documentation and offers were traded back and forth. A lot of the work was based on their existing compensation and work structure. They rejected those offers. The Union was not responsive to any of the Villages concerns.

The Village has had a long history of being dedicated to its Police Department. The Village has the highest rating in CALEA Certification and the CALEA Manual is dedicated to the Village. The Union does not have that prospective.

Negotiation was cut off by the Union and a Federal Mediator was called in for several sessions. That mediation did not produce any significant results and ultimately, the Village went to arbitration. The attorneys representing the Village on Union issues met with the arbitrators and the meetings were held in closed session.

When the Village came to the issue of arbitration, the Village asked for a three member panel, which is its right. A neutral arbitrator, a person chosen by Mr. McAlpin, a Union arbitrator, Mr. Garza and a Village arbitrator, President Abboud. These three met to form a Ruling as an Arbitration Panel, took evidence from the Union and evidence and testimony from witnesses from the Village. These sessions were closed to the public. The result was to produce two documents. The first is the actual Arbitration Ruling itself and the second and was the Descent Opinion which was President Abboud's opinion. President Abboud looked at each item, one by one and evaluated whether he agreed with any ruling. President Abboud felt the Ruling was flawed in four major areas.

First, the Neutral Arbitrator stated he will take one side or the other. Second, the Neutral Arbitrator took the opinion of weighing the use of status quo. Status quo was that our officers as all employees, served at will. Third, management rights, the Arbitration Panel in its ruling over steps its bounds and forth, public consideration. The arbitration panel never fully took into account the interest and welfare of the public and consideration of the Village to meet financial responsibility to meet the cost of the CBA. CBA Ruling was never costed. The Village had to do that.

Existing MAP Chapter 576 is not in a position to enter into a contract on the officer workload comparison. The comparables that were used, were used properly relative to the Village of Barrington Hills in comparing to other communities.

President Abboud asked that he would like to divide this discussion into two votes. One, items in dissent opinion that were listed not accepted by the Village Arbitrator and those items are in in the packet marked with a NO and he will read thru those numbers. He will create the structure of a motion and will list all those sections included in that motion. Anyone who would like to make that motion simply has to say "so moved". He will ask for a second and go into discussion of each of these items. We will vote on that and go to the YES items.

The Panel brings Ruling to Board, the Board has twenty days to review package and twenty days to draft a response to Arbitration Panel. The Panel has thirty days to review why we voted no and the process starts all over again. The Statute does not provide an exit plan and the process continues.

After the first round, the Village is on the hook for the Arbitration Panel. The cost is, Arbitrator \$1,000/day, and also paying Union Attorney working on the case. The Village has a right to inspect those invoices and the Board has a right to vote whether or not to pay.

The first motion is to reject the following items in the package.

First motion language – In the matter of arbitration between the Village of Barrington Hills and the Metropolitan Alliance of Police Barrington Hills Police Chapter 576, the motion is from the arbitration award numbered SMA-10-3778 dated January 21<sup>st</sup>, to reject the following items. A Yes vote would reject the following items.

1.1; 1.2; 2.1; 3.5; 4.1; 5.1; 5.5; 6.2; 6.3; 7.2; 7.3; 7.4; 7.6; 7.7; 7.8; 7.10; 7.11; 7.12; 8.3; 8.4; 9.3; 10.1; 10.2; 10.3; 10.4; 11.1; 11.2; 12.1; 12.2; 12.4; 12.7; 13.1; 13.4; 15.4; 15.5; 15.6; 15.8; 16.1; 16.2; 16.3; Article 17, Maintenance of Benefits; Article 20, Termination; Appendix A, Wage Schedule and Appendix C, , Equipment List.

President Abboud called for a motion to reject those items. Trustee Messer motioned to reject the above items and Trustee Selman seconded.

Trustee Ramesh motioned to add Section 6.1, Definition of Grievance is too broad. Trustee Messer seconded. Roll Call. All said Aye. Section 6.1 added to list.

Trustee Ramesh motioned to add Article 19, Employee Handbook needs to be incorporated. Trustee Gianopulos seconded. Roll Call. All said Aye. Article 19 added to list.

Attorney Zinevich approached the Board and recommended we add 10.5, Waiver of Health and/or Dental. Contribution was changed from 1/26<sup>th</sup> instead of the original 1/24<sup>th</sup>. Trustee Messer motioned to add this item to list. Trustee Meroni seconded. Roll Call. All said Aye. Item 10.5 added to list.

Attorney Zinevich recommended that we add Item 7.1, Hours of Work/Overtime, as the Village needs to maintain management and eliminate subject of bargaining. Trustee Selman motioned to add 7.1 to the list. Trustee Messer seconded. Roll Call. All said Aye. Item 7.1 added to list.

Attorney Zinevich recommended that we add Item 13.3, Officer In Charge Compensation to the list. Language has been added that was not in the original proposal. Roll Call. Trustee Selman motioned to add Item 13.3 to the rejected list. Trustee Meroni seconded. Roll Call. All said Aye. Item 13.3 added to list.

Trustee Gianopulos questioned why President Abboud disagreed with the salary piece of the compensated related items, why not other compensated items such as vacation pay and sick time. President Abboud replied that we rejected 144 hours of sick pay, Health Care, Ruling asked for 100% coverage for health care and there is no comparable. We rejected holiday time and longevity pay.

President Abboud called for Roll Call on items added to the rejection list.

Trustee Gohl motioned to add 8.1, Eligibility and Allowances. Trustee Selman seconded. Trustee Gohl asked how hours per year, month, per pay period are earned for vacation. President Abboud explained that the language in the ruling is the same as in our handbook. Trustee Gohl withdrew his motion. Attorney Zinevich recommended that the arbitration panel needs to clarify item 8.1. Trustee Gohl reinstated his motion and Trustee Selman seconded. Roll Call. All said Aye. Item 8.1 added to the list.

Trustee Gohl questioned Item 12.3, Jury Leave. Trustee Gohl motioned to add Item 12.3 to the list of rejected items, Trustee Selman seconded. Trustee Gohl felt that the language was too lenient and was told that the days of jury duty are State mandated. By law, employer cannot interfere with jury service.

President Abboud asked Attorney Lynch if he was aware of a structure in which a police officer who is called to jury service, that the Village would be able to step in and suggest/attempt to testify during that jury hearing about the need for that particular officer would cause a hardship. Attorney Lynch stated that there is a possibility that State and Federal might grant that absence. Attorney McGuire said he thought that if an officer was working undercover and the Village did not want that individual to be on the jury to be identified as a police officer, that would fall into the category of the hardship. Attorney Lynch agreed. Trustee Gohl stated the language on Item 12.3 should be adjusted to – the employee shall notify the Village within one working day of receiving the call to jury duty. Shall cooperate with the Village in an attempt by the Village to have the employee excused from jury service if the Village deems absence of the employee will create a hardship. Roll Call. Trustees Gohl, Messer, Meroni, Selman and President About said Aye. Trustees Gianopulos and Ramesh voted Nay. Item 12.3 added to list of rejected items.

Trustee Gohl motioned to add Item 15.3, Reimbursement for Expenses to the list. Trustee Messer seconded. Trustee Gohl felt unless it is an overnight trip, breakfast and dinner should not be covered. Ruling has dollar amount pre diam. Trustee Messer wants 15.2 to reflect what we are currently doing, requesting receipts. Roll Call. All present said Aye. Item 15.3 added to rejected list.

Trustee Gohl asked for adding on Items 6.1; 7.1; 8.1; 10.5; 12.3; 13.3; 15.3 and Article 19.

President Abboud stated that the original motion is on the table. A vote of Yes and the Board accepts the rejection list and those items are formally rejected by this Board relative to the contract. Roll Call. All said Aye.

Trustee Gianopulos asked who was going to write up the details. President Abboud stated that Statute calls that his office write up the answer to the Arbitration Panel. The Trustees will get a copy. If any trustees have additional items from the discussion had today, email them to President Abboud. President Abboud will be asking Attorneys Zinevich and McGuire to assist crafting the principle draft and it will be around both the dissenting opinion and all the discussion had here tonight and they have precedents in other legal issues to put towards it. That will be submitted within twenty days and the clock starts as of 0800 the morning of January 29<sup>th</sup>.

The second series of votes is to accept the remaining Arbitration Ruling. On the Acceptance List, we will have: Section 1.3; 3.1; 3.2; 3.3; 3.4; 3.6; 4.2; 5.2; 5.3; 5.4; 7.5; 7.9; 7.13; 8.2; 9.1; 9.2; 10.6; 11.3; 12.5; 12.6; 13.2; 14.1; 15.1; 15.2; 15.7; 16.4; Article 18 and Appendix B.

Trustee Gianopulos motioned to accept the Acceptance List. Trustee Meroni seconded. Call for discussion. Second call for discussion. Roll Call. All present said Aye.

Trustee Gianopulos questioned the Baker tilly document. Treasurer Ryba explained the document is just a scenario based on information available. The Village can't know exactly what the numbers would be until it happens.

### **BUILDING AND ZONING - Joseph S. Messer**

Monthly Report – Five building permits were issued from December 16<sup>th</sup> to December 31<sup>st</sup>.

2 Tricia Lane: Property with two barn structures, the existence of which caused the property to violate F.A.R. requirements. He has removed the smaller barn. Mr. Patel appeared before the ZBA on September 17<sup>th</sup> and his request for a variance was denied.

**Update:** Mr. Patel obtained BP #5233 for the demolition of his barn. Demolition was completed and permit issued prior to the December 27<sup>th</sup> court date and charges were dismissed.

363 Bateman Cir S: Police Department served Ms. Marie Stallone (daughter who signed contract to have trees removed) for August 24<sup>th</sup> court date re: mitigation. Attorney Busch asked the Court to enter an Order requiring Ms. Stallone to mitigate the damage by re-planting and a fine of \$750 per day for each day that she fails to comply with the Order. ComEd has cut service to this property. The Village Arborist provided the replacement cost of the removed trees (\$82,320.00 includes 3 year guarantee as required by code), per the Court's request. The Village filed an amended complaint requesting \$750.00/day for the non-conforming structure (barn without residence).

**Update:** Mr. Terry Atkiels (property owner dispute) appeared in court January 11<sup>th</sup>, Ms. Stallone has yet to appear for court. Judge refused to award that large a judgment without actual replacement. James Busch will attempt to obtain a prospective judgment. Status date February 13<sup>th</sup>.

8 Jennifer Court: Landscape contractor submitted plans to correct septic problem July 25<sup>th</sup>. GHA reviewed plans and responded via letter on August 6<sup>th</sup>. GHA had five issues with the plan. Mailed certified letter on November 20<sup>th</sup> advising two weeks to comply or matter will be referred to Village Attorney.

**Update:** Per Village Engineer, revised drawings forwarded on December 17<sup>th</sup> addressed none of his August 6<sup>th</sup> comments. Mr. Desai notified by email January 3<sup>rd</sup> and January 10<sup>th</sup> matter to be referred to Village Attorney, still no response. Citation issued and sent to resident via certified mail January 24<sup>th</sup> for 4-2-7 (D) 7 discharge of sewage, 4-3-3 (I) altered drainage and 7-1-2 created cesspool.

551-553 Cuba Road: Home Occupation violation (mulch pile & landscaping) letter sent July 20<sup>th</sup> with 45 day response date (09/04/12). Dave Myers provided a letter to the Building Department August 29<sup>th</sup> stating he is currently working on cleaning up the property. He plans to be in compliance within the next 60 days (10/23/12).

**Update:** Property checked again on January 24<sup>th</sup> and equipment still visible and mulch pile appears to be unchanged from last two months. Citations to be issued for non-compliance.

385 Spring Creek Road: Expired pond permit (issued 08/07/06). Final notice letter requiring work to be completed and an “as built” drawing filed with the Village sent to property owner (Roman Udzielak) on July 20<sup>th</sup> with 45 day response date (09/04/12). Per the mortgage bank’s attorney, home was sold back to bank on October 22<sup>nd</sup> with confirmation date of January 23<sup>rd</sup>.

**Update:** Sale confirmation deferred to April. Site to be considered for a dry hydrant.

594 Plum Tree Road: Roads were created and property has become a dumping ground, although no further complaints since stop work order was posted. Realtor advised the Village the property is occupied by the owner. All attempts to contact property owner have failed to result in any response from owner.

**Update:** Property to be checked periodically for any further construction.

1313 Plum Tree Road: Building permit issued August 31, 2006 for an addition and alteration. Rough inspections were made, last ones being completed in 2008, but the permit remains uncompleted. Property owner is in litigation with contractors. Certified letter sent November 27<sup>th</sup> advising the Village to close expired permit and any further work will require property owner to obtain new building permit to complete work. No response to date.

**Update:** Building Department to request status inspection before closing expired permit.

74 Brinker Road: On October 18<sup>th</sup> the Building Department was made aware the resident has constructed a canopy/shelter over an outdoor hockey rink without a permit. Property owner was notified by certified letter on November 6<sup>th</sup> and has submitted plans for review

**Update:** BP#5236 issued, inspection conducted, owner advised of necessary corrections and to call for re-inspection upon completion.

189 Old Sutton Road: Received complaints from neighbors regarding burning violations and construction of a barn lean-to without a permit. Stop work order was posted October 31<sup>st</sup> and certified letter sent to property owner. Residence and barn are leased to separate tenants. Property owner and barn tenant are working with Building Department to resolve.

**Update:** Removal of structure in progress with a February 8<sup>th</sup> expected completion date.

358 Bateman Circle South: Resident was re-grading property without a site development permit and a stop work order was posted November 1<sup>st</sup>. Resident is working with an engineer and Dan Strahan to provide necessary documents for site development permit. Dan Strahan advised the contractor could remove soil from right-of-way while awaiting building permit.

**Update:** Dan Strahan is still working with landscape architect to complete drawings.

3117 Spring Creek Road: Two wage garnishment checks have been received to date.

ZBA Report – Trustee Messer advised that the Zoning Board is working on Code changes to create regulatory system so residents need to pay fines and resolve open court violations before they can get a variance.

Responsible Bidder Ordinance – President Abboud stated that this is a Legislative item. The Indiana, Illinois, Iowa Foundation for Fair Contracting (IIFFC) wants to crowd out Municipalities ability to hire non-union workers in areas where prevailing wages do not apply. Most municipalities are against this. This item is also included in BACOG’s Legislative Platform.



**PLANNING – Elaine M. Ramesh**

Monthly Report – The Plan Commission meeting of January 14<sup>th</sup> had been cancelled.

Cook County Date IGA Resolution – Trustee Ramesh motioned to approve the resolution authorizing the execution of an agency Agreement with the Cook County Assessor. Trustee Gohl seconded. All present said Aye.

**Resolution 13-03 Approved**

East Dundee IAA Land Use Report – President Abboud will be meeting with State Representative David McSweeney on January 29<sup>th</sup>, to work on putting pressure on the IEPA. President Abboud wrote a letter to Director John Kim of the IEPA regarding his visit to the Wheeling site with our Village Attorney, where they observed an appalling lack of care for the environment. A large scale pump, approximately 70 HP, was pumping storm water from an open storm water drain to property owned by ComEd. They notified the Wheeling Building Department that assessed this was a significant violation and a citation was issued. The same violation was found in twenty states and there is no evidence to suggest that IAA will act differently in East Dundee. We now have three State Senators, two State Representatives including Commissioner Goslin, that are now asking for a direct investigation from IEPA. We have asked ComEd to evaluate the IAA proposed site in East Dundee as they need to give them an easement to cross ComEd property.

**INSURANCE – Harold Gianopulos**

Monthly Report – Nothing new to report.

**HEALTH, ENVIRONMENT, BUILDINGS & GROUNDS – Harold Gianopulos**

Monthly Report – Several Village personnel and committee members visited recycling facilities, including Waste Management, Prairie Land and Groot.

Emerald Ash Borer – A resident emailed the Village regarding his concern over the infestation of this insect on his ash trees. Trustee Meroni also stated that the trees on Bellwood are also infested. Trustee Selman stated this issues will be addressed in the Spring Newsletter and a list of Arborists residents will be provided for the residents to contact.

**ATTORNEY – Doug Wambach**

Pending Litigation - Covered in Executive Session.

Personnel – No report.

**ADMINISTRATION – President Abboud**

BACOG 2013 Legislative Platform – Trustee Selman motioned to accept the BACOG 2013 Legislative Platform. Trustee Gianopulos seconded. All present said Aye. Trustee Gohl said Nay.

**Motion Approved**

**PUBLIC COMMENTS:** None

Trustee Gianopulos made the motion to adjourn the Public Session at 10:55 p.m. Trustee Meroni seconded. All present voted Aye:

**Meeting Adjourned**

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**Approved**