

**MINUTES OF A SPECIAL MEETING
OSWEGO VILLAGE PRESIDENT AND BOARD OF TRUSTEES
OSWEGO VILLAGE HALL
100 PARKERS MILL, OSWEGO, ILLINOIS
December 18, 2018**

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

President Gail Johnson called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

Physically Present: President Gail Johnson and Trustees Ryan Kauffman, Karin McCarthy-Lange, Pam Parr, Luis Perez, Judy Sollinger and Joe West.

Staff Present: Dan Di Santo, Village Administrator; Christina Burns, AVA/HR Director; Tina Touchette, Village Clerk; Jeff Burgner, Police Chief; Jennifer Hughes, Public Works Director; Jay Hoover, Building & Zoning Manager; Jenette Sturges, Community Engagement Coordinator-Marketing; Carri Parker, Purchasing Manager; Harry Bell, Administrative Intern; and David Silverman, Village Attorney.

CONSIDERATION OF AND POSSIBLE ACTIONS ON-ANY REQUESTS FOR ELECTRONIC PARTICIPATION IN MEETING

There was no one who participated electronically.

PUBLIC FORUM

Public Forum was opened at 6:01 p.m. There was no one who requested to speak; the Public Forum was closed at 6:01 p.m.

STAFF REPORTS

Administrator Di Santo- thanked staff and the Board for volunteering at the Kendall County Food Pantry; this is the third year in row for volunteering; it's a nice tradition.

Director Hughes- the new Police Headquarters received a Project of the Year award from the American Public Works Association Fox Valley branch in the category of Structures - \$25 million to \$75 million. Village staff will be presented with the award and give a presentation on the project at the annual luncheon of the Fox Valley branch of the APWA on Tuesday, Jan. 8 at Two Brothers. From there, the Oswego Public Safety Campus will be advanced to the Chicago Metro competition where it will compete against projects from Chicago and collar counties. She thanked Chief Burgner, Deputy Chief Jensen and Jenette Sturges for their help.

Manager Parker- gave a brief explanation of Consent Agenda item G.7.; noted some of the surplus items would be donated to surrounding communities; asked whether there was any questions or concerns with donating; discussion focused on identifying items with a dollar value; a lot are older pieces; will get money for items of value.

Manager Hoover- briefly stated the use of old Police Department fitness equipment would be relocated to Village Hall, for staff use, as part of the wellness program; employees like to walk in the Winter; treadmills will be located on the second floor for staff to use before and after work and on lunch at no cost.

CONSENT AGENDA

- G.1. December 4, 2018 Committee of the Whole Minutes
- G.2. December 4, 2018 Regular Village Board Minutes
- G.3. Resolution Authorizing the Execution of an Agreement between the Village of Oswego and The International Union of Operating Engineers Local 150; Subject to Attorney Review.
Resolution No. 18-R-99
- G.4. Ordinance Amending Title 6 Chapter 2 Section 24 of the Village Code of Ordinances; Vagrants (First Read of Ordinance, Waiver of Second Read) **Ordinance No. 18-101**; removing from Village code because it is outdated and there is new case law; not replacing; have other laws and codes the Police Department can rely on.
- G.5. Resolution Authorizing Final Acceptance of Public Improvements for O'Reilly Auto Enterprises, 4092 Route 71, Oswego, IL, Effective December 19, 2018, and Release of Project Surety. **Resolution No. 18-R-100**
- G.6. Resolution Amending the Personnel Policy Manual for the Village of Oswego; Vacation, Fitness and Recreation Equipment Use Policy. **Resolution No. 18-R-101**
- G.7. Ordinance Authorizing the Disposal of Surplus Property Owned by the Village of Oswego; Miscellaneous Furniture, Equipment and Old Water Meters. (First Read of Ordinance, Waiver of Second Read) **Ordinance No. 18-102**

A motion was made by Trustee Kauffman and seconded by Trustee Perez to approve the Consent Agenda; Approving the December 4, 2018 Committee of the Whole Meeting Minutes; Approving the December 4, 2018 Regular Village Board Minutes; and approving the following ordinances and resolutions:

Ordinance No. 18-101; Ordinance Amending Title 6 Chapter 2 Section 24 of the Village Code of Ordinances; Vagrants (First Read of Ordinance, Waiver of Second Read)

Ordinance No. 18-102; Ordinance Authorizing the Disposal of Surplus Property Owned by the Village of Oswego; Miscellaneous Furniture, Equipment and Old Water Meters. (First Read of Ordinance, Waiver of Second Read)

Resolution No. 18-R-99; Resolution Authorizing the Execution of an Agreement between the Village of Oswego and The International Union of Operating Engineers Local 150; Subject to Attorney Review.

Resolution No. 18-R-100; Resolution Authorizing Final Acceptance of Public Improvements for O'Reilly Auto Enterprises, 4092 Route 71, Oswego, IL, Effective December 19, 2018, and Release of Project Surety.

Resolution No. 18-R-101; Resolution Amending the Personnel Policy Manual for the Village of Oswego; Vacation, Fitness and Recreation Equipment Use Policy.

Aye: Ryan Kauffman	Karin McCarthy-Lange
Pam Parr	Luis Perez
Judy Sollinger	Joe West

Nay: None

The motion was declared carried by an omnibus roll call vote with six (6) aye votes and zero (0) nay votes.

BILL LIST

H.1. Approve Bill List Dated December 18, 2018 in the Amount of \$1,805,096.03.

A motion was made by Trustee Parr and seconded by Trustee Kauffman to approve the Bill List Dated December 18, 2018 in the Amount of \$1,805,096.03.

Aye: Ryan Kauffman	Karin McCarthy-Lange
Pam Parr	Luis Perez
Judy Sollinger	Joe West

Nay: None

The motion was declared carried by a roll call vote with six (6) aye votes and zero (0) nay votes.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

J.1. Resolution Authorizing the Execution of a Contract with Azavar Audit Solutions for Data, Financial and Compliance Analysis Services. **Resolution No. 18-R-102**

Manager Parker addressed the Board regarding a contract with Azavar. Azavar Audit Solutions began in 2005 as the Azavar Municipal Utility Review Program. Headquartered in Chicago, Azavar Audit Solutions serves a large client base of municipal organizations, specializing in identifying uncollected or improperly collected revenues. Azavar reviews Village data and, using GIS analysis, contract review and other methods, ensures that all revenue owed to the Village is being properly collected. Azavar works on a contingency basis; meaning their fee is paid from the revenue identified and collected. Staff reviewed the proposal and completed reference checks. Staff believes the companies experience, satisfaction rate, and recovery success is worth the additional costs if monies are found to be owed to the Village. There is no charge if they do not find anything.

Board and staff discussion focused on how they get paid for services; Azavar does not get paid until the Village gets paid; Azavar is paid a percentage; checks that vendors are properly collecting money and paying the correct amount to the Village; 30 month contract; how long it takes to identify uncollected revenues; attorneys are paid by Azavar; what the average return is; what history shows for communities of Oswego's size; cannot determine at this time. There was no further discussion.

A motion was made by Trustee Sollinger and seconded by Trustee McCarthy-Lange to approve a Resolution Authorizing the Execution of a Contract with Azavar Audit Solutions for Data, Financial and Compliance Analysis Services.

Aye: Ryan Kauffman	Karin McCarthy-Lange
Pam Parr	Luis Perez
Judy Sollinger	Joe West

Nay: None

The motion was declared carried by a roll call vote with six (6) aye votes and zero (0) nay votes.

J.2. Resolution Authorizing the Execution of a 4-Year Contract for the Delivery of Bulk Fuel in the Amount of \$0.12 Over Rack Price to Al Warren Oil Co. Inc. **Resolution No. 18-R-103**

Manager Parker addressed the Board regarding a contract for bulk fuel. The bid opening was held on December 11, 2018; two bids were received. Al Warren Oil Co. Inc. submitted the lowest responsible bid at \$0.12 above rack price for all three years. The Village can purchase fuel at either a set price or at a rate above the rack price. Purchasing at a set price locks in the rate but may result in an overpayment if the price of fuel declines. Basing the rate on the rack price means the rate more closely resembles the market, which means the Village can take advantage of dips in gasoline prices throughout the year but is also subject to the market volatility. Using the rack rate has worked well for the Village in the past.

In previous years, staff purchased 80% of the fuel needs up front; 12,500 gallons of gasoline at \$2.35/gallon and 10,000 gallons diesel at \$2.50/gallon. This process would have worked out had the rack prices increased steadily over the contract period. However, during this time the rack price declined. Had the Village received the rack price, previously, the Village would have saved an estimated \$8,000 in fuel costs. Due to the potential cost savings, staff decided to obtain the rack price in 2016 with an optional two-year renewal. Staff believes this purchase method is the in the best interest of the Village. Contract begins January 1, 2019.

Board and staff discussion focused on what rack prices means; price set every Monday; Village does not pay taxes on the fuel; information available online every Monday; no gas or State tax on the fuel; paying Chicago regional price. There was no further discussion.

A motion was made by Trustee Sollinger and seconded by Trustee Parr to approve a Resolution Authorizing the Execution of a 4-Year Contract for the Delivery of Bulk Fuel in the Amount of \$0.12 Over Rack Price to Al Warren Oil Co. Inc.

Aye: Ryan Kauffman Karin McCarthy-Lange
Pam Parr Luis Perez
Judy Sollinger Joe West

Nay: None

The motion was declared carried by a roll call vote with six (6) aye votes and zero (0) nay votes.

J.3. Ordinance Amending Section 300.17; Section 300.30; and 602.0 of the Floodplain Ordinance of the Village of Oswego Kendall and Will Counties, IL to Adopt Flood Insurance –Study and Flood Insurance Rate Maps for Will County (Waive First Reading) **Ordinance No. 18-103**

Director Hughes addressed the Board regarding an amendment to the floodplain ordinance. The Village is a member of the National Flood Insurance Program which makes property owners within the Village eligible to obtain flood insurance. The Village adopted the current floodplain regulations in 2009. The regulations reference the Flood Insurance Studies for Kendall County. The maps identify areas of the Special Flood Hazard Area (SFHA) which, due to the likelihood of flooding, are subject to higher regulatory requirements and insurance rates than properties not located in the SFHA. Properties that are not located in the SFHA may still flood. The Federal Emergency Management Agency prepared revised Flood Insurance Studies for Will County. Since portions of the Village are or will be in Will County, the Village must adopt the revised studies to maintain our standing in the Flood Insurance Program. The Floodplain Ordinance will be revised to adopt these panels. There was no further discussion.

A motion was made by Trustee Kauffman and seconded by Trustee Perez to approve an Ordinance Amending Section 300.17; Section 300.30; and 602.0 of the Floodplain Ordinance of the Village of Oswego Kendall and Will Counties, IL to Adopt Flood Insurance –Study and Flood Insurance Rate Maps for Will County. (First Read of Ordinance, Waiver of Second Read)

Aye: Ryan Kauffman Karin McCarthy-Lange
Pam Parr Luis Perez
Judy Sollinger Joe West

Nay: None

The motion was declared carried by a roll call vote with six (6) aye votes and zero (0) nay votes.

J.4. Resolution Authorizing Gilbane Building Company to Execute Change Order #ATP-168 to the HVAC Contract with C. Acitelli Heating in the Amount Not to Exceed \$42,657.25 for the Construction of the New Police Headquarters Project and the Waiving of the Competitive Public Bidding Requirement. **Resolution No. 18-R-104**

Chief Burgner addressed the Board regarding a change order and HVAC contract. The new Police Headquarters will be equipped with evidence processing equipment that will require an exhaust system to evacuate air from evidence processing/packaging areas of the building; providing for a safe work environment. When drawings were released for Bid Release #3 on April 25, 2017, the details of this exhaust system were not included in the released drawings. Once the bidding process was completed on May 23, 2017, a HVAC contractor had been selected and approved by the Village Board on June 6, 2017. Final construction drawings were released by HOK on June 19, 2017. Included in these drawings were the details for the exhaust system within the evidence processing/packaging areas of the building. The details were not highlighted in the construction set of

documents released on June 19, 2017; therefore, Gilbane Building Company as well as C. Acitelli Heating did not pick up on the new detail until later in the project during coordination efforts for the evidence processing/packing spaces. It was determined that up to seven pieces of equipment called EAV's as well as associated ductwork and installation were not included in the bid submitted by C. Acitelli Heating. The EAV is a piece of equipment that is attached to each run of ductwork for each of the specialty pieces of equipment intended to be installed in the evidence processing/packaging areas. The EAV controls the exhaust flow for each piece of equipment.

During the final months of the project, a new superintendent from Gilbane Building Company was assigned to the project. While doing so, they began closing the loop on open issues such as the coordination of evidence processing equipment intended for these spaces. In mid-October, Village staff was notified of the issue regarding the cost for the above-mentioned work not being captured during the bidding process. Pricing for the work was obtained from the HVAC contractor and the total cost for the work is \$55,919.09. It was also determined that the HVAC contractor did bid out a fume hood for the evidence processing area of the building which carries a value of \$13,261.84. During the project, Village staff did not know the equipment was included in the HVAC contract and had been planning to fund this item from alternate sources later in the project; depending on the final status of the budget. The HVAC contractor is willing to provide a contract deduct of \$13,261.85 for the fume hood to use towards the EAV work which would bring the cost to a not to exceed \$42,657.25. Staff would then track the cost for a fume hood in the close out of the project to determine if the current budget will cover the cost. If not, staff will find alternate funding sources such as asset forfeiture or funding from future budget years.

The total cost to address the issue will not exceed \$42,657.25 when using the credit for the fuming hood. The quote has been reviewed by Gilbane Building Company and HOK to confirm the cost is reasonable and covers the scope of the work. The gross change order of \$42,657.25 represents approximately 1% of the awarded contract. Per Section 1-19-11-A(4), change orders exceeding \$15,000 must be approved by the Village Board.

Board and staff discussion focused on total cost of the HVAC system; types of fumes would come from chemicals being used in the evidence room; still have money in the original contract; not asking for additional money; contingency funds are in place; who missed this issue in the original contract; combination of blame; staff asked Gilbane to negotiate the price; equipment would need to be purchased anyway; evidence room is not currently usable; equipment to be installed immediately. There was no further discussion.

A motion was made by Trustee Perez and seconded by Trustee McCarthy-Lange to approve a Resolution Authorizing Gilbane Building Company to Execute Change Order #ATP-168 to the HVAC Contract with C. Acitelli Heating in the Amount Not to Exceed \$42,657.25 for the Construction of the New Police Headquarters Project and the Waiving of the Competitive Public Bidding Requirement.

Aye:	Ryan Kauffman	Karin McCarthy-Lange
	Pam Parr	Luis Perez
	Judy Sollinger	Joe West

Nay: None

The motion was declared carried by a roll call vote with six (6) aye votes and zero (0) nay votes.

J.5. 63 W. Washington Street Mexican Restaurant:

- a. Ordinance Authorizing the Approval of a Third Amendment to the Purchase and Sale Agreement with Andrew Trasatt for 63 W. Washington Street. (First Read of Ordinance, Waiver of Second Read) **Ordinance No. 18-104**
- b. Ordinance Approving the First Amendment to the Redevelopment Agreement Between the Village of Oswego and JLAT LLC Concerning 63 W. Washington Street. (First Read of Ordinance, Waiver of Second Read) **Ordinance No. 18-105**

Administrator Di Santo addressed the Board regarding a third amendment to the purchase and sale agreement and a first amendment to the redevelopment agreement. On May 27, 2017 the Board passed Ordinance 17-23 Approving a Purchase and Sale Agreement (PSA) with Andrew Trasatt for the purchase of 63 W. Washington Street with the intent to develop as a Mexican Restaurant. The PSA was amended on November 21, 2017 and May 1, 2018 to extend the inspection period to November 21, 2018 to allow the parties to finalize the redevelopment agreement (RDA). On October 2, 2018, the Board passed Ordinance 18-80, approving an RDA with JLAT, LLC to redevelop 63 W. Washington Street with a Mexican Restaurant. The RDA outlines the obligations of both the Village and JLAT, including a Village lien rights and a right of reverter. As JLAT pursues financing on the project, their lender requires two RDA revisions and one PSA revision to proceed.

The proposed Third Amendment to the PSA would establish a May 1, 2019 closing deadline, which coincides with the developer's deadline to begin construction on the development. It's necessary to extend the closing deadline to allow JLAT to finalize development financing. Section 13(G) of the RDA describes the Village's rights to lien the property should money or other consideration be due from JLAT that is not otherwise collectable through a cash payment or JLAT's performance surety. The RDA states that the Village's lien is subordinate only to "any first mortgage" (*i.e.*, JLAT's lender). Since JLAT is pursuing financing through the federal Small Business Administration (SBA), the SBA is also asking to be listed as a lien holder in front of the Village. At the time the RDA was drafted, staff only anticipated one mortgage holder on the project, and the intent was for the Village's lien to be subordinate to the lone mortgage holder. However, since JLAT is seeking SBA financing, staff agrees that amending the RDA to make the Village's lien subordinate to both the lender and the SBA is consistent with the RDA's original intent.

In addition, RDA Section 8(C) establishes a "right of reverter," which allows the Village to take back possession of the property should JLAT fail to meet its development obligations. A revised Section 18(U) is presented in the RDA Amendment to clarify that upon substantial completion of the development and JLAT's full compliance with the RDA, the Village will agree to release the right of reverter. Like the first change, this is consistent with the RDA's original intent and staff supports the modification. None of the changes impact the construction schedule, which is still slated to begin this spring.

Board and staff discussion focused on how long the business needs to be open before the reverter goes away; reverter goes away once the business is operational; agreement includes language that requires the business to stay open for three years or they owe the Village \$90,000; Ancel Glink reviewed the amendments; SBA is still in process; deadline is around January 1, 2019. There was no further discussion.

A motion was made by Trustee Kauffman and seconded by Trustee Perez to approve an Ordinance Authorizing the Approval of a Third Amendment to the Purchase and Sale Agreement with Andrew Trasatt for 63 W. Washington Street. (First Read of Ordinance, Waiver of Second Read)

Aye:	Ryan Kauffman Pam Parr Judy Sollinger	Karin McCarthy-Lange Luis Perez Joe West
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Nay: None

The motion was declared carried by a roll call vote with six (6) aye votes and zero (0) nay votes.

A motion was made by Trustee Perez and seconded by Trustee Kauffman to approve an Ordinance Approving the First Amendment to the Redevelopment Agreement Between the Village of Oswego and JLAT LLC Concerning 63 W. Washington Street. (First Read of Ordinance, Waiver of Second Read)

Aye: Ryan Kauffman	Karin McCarthy-Lange
Pam Parr	Luis Perez
Judy Sollinger	Joe West

Nay: None

The motion was declared carried by a roll call vote with six (6) aye votes and zero (0) nay votes.

PRESIDENT'S REPORT

Happy Holidays and New Year's. Had a great 2018.

Asked that the Village Board review the new security policy; need to wear their name badges as part the new security measures in Village Hall.

TRUSTEE REPORTS

Trustee McCarthy-Lange – Happy Holidays; much excitement in the new year.

Trustee Kauffman- fire on Light Rd; 24 families are homeless; people are reaching out to him asking what they can do. President Johnson will be contacting Fire Chief Veseling in the morning to get further details; Red Cross is currently assisting the families; also reached out to the Salvation Army. Manager Hoover noted that temporary shelters were being provided by the Red Cross; the fire took place in the County's jurisdiction; staff will work with the County. Administrator Di Santo suggested we promote/provide help information on social media once it becomes available.

CLOSED SESSION

There was no Closed Session held.

ADJOURNMENT

A motion was made by Trustee McCarthy-Lange and seconded by Trustee Kauffman to adjourn the meeting; upon a voice vote with all remaining members present voting aye, the meeting was adjourned at 6:41 p.m.

Tina Touchette
Village Clerk