

**MINUTES OF THE REGULAR MEETING
OF THE GURNEE VILLAGE BOARD**

**GURNEE VILLAGE HALL
JANUARY 28, 2019**

Call to Order

Mayor Kovarik called the meeting to order at 7:00 p.m.

Other Officials in Attendance

Patrick Muetz, Village Administrator; David Ziegler, Assistant Village Administrator / Community Development Director / Village Engineer; Bryan Winter, Village Attorney; Brian Gosnell, Finance Director; Chris Velkover, Information Systems Director; Tom Rigwood, Director of Public Works; John Kavanagh, Fire Chief; Brian Smith, Interim Police Chief; Jesse Gonzalez, Deputy Police Chief; Jeremy Gaughan, Police Commander; Willie Meyer, Police Commander; Ellen Dean, Economic Development Director, Jack Linehan, Assistant to the Administrator.

Roll Call

PRESENT: 5- Balmes, Hood, Thorstenson, Jacobs, Ross
ABSENT: 1- Garner

Pledge of Allegiance

Mayor Kovarik led the Pledge of Allegiance.

Mayor Kovarik asked for a motion to suspend Public Comment until the end of the meeting.

It was moved by Trustee Hood, seconded by Trustee Thorstenson to suspend Public Comment.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Jacobs, Ross

NAY: 0- None

ABSENT: 1- Garner

Motion Carried.

Mayor Kovarik asked for a motion to move Reports forward on tonight's agenda.

It was moved by Trustee Jacobs, seconded by Trustee Thorstenson to move Reports forward.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Jacobs, Ross

NAY: 0- None

ABSENT: 1- Garner

Motion Carried.

A. REPORTS

1. Update on ethylene oxide.

**Larry Mackey
Deputy Director –
Prevention
Lake County Health
Department**

Mr. Mackey provided the Village Board an update on what the Lake County Health Department (LCHD) has learned and the action it has taken regarding ethylene oxide (EtO).

Ethylene oxide is a colorless gas that is used to make other chemicals that produce many everyday products and is used in sterilizing medical and dental equipment. Other sources of ethylene oxide air emissions include automobile exhaust.

People can be exposed to ethylene oxide through direct inhalation, ingestion, or contact to the skin.

The US EPA reclassified ethylene oxide as a human carcinogen in December 2016 (it had previously been classified as a *potential* human carcinogen).

On November 2, 2018 the Lake County Health Department learned about concerns of ethylene oxide emissions from Medline Industries in Waukegan and Vantage Specialty Chemicals in Gurnee. The Health Department team began investigating immediately, working with our

federal, state, and local partners

The Illinois and US EPAs are currently solely responsible for regulating emissions and are the lead agencies in this matter. US EPA establishes exposure levels and promulgates emission regulations. IEPA issues permits for emissions and enforces compliance with the permits. LCHD's role is to assure that the regulatory agencies are protecting the health of Lake County residents

The issue of EtO emissions was brought to the forefront by the 2014 National Air Toxics Assessment (NATA) online map, which was shared recently in the media. The NATA map is a risk screening tool designed to help federal, state, and local agencies better understand public health risks of air toxics by delineating areas where emissions or discharges of carcinogens are known to exist. The 2014 NATA maps were adjusted to include more areas due to the re-assessment of the potency of EtO as a carcinogen. The NATA maps depict areas of *potential* increased cancer risk. The maps do not represent known cancer cases or higher rates of cancer in the areas surrounding these facilities. There are no known cancer clusters in the areas surrounding Vantage or Medline in Lake County

Information known to date: The US EPA set up a Lake County page on their website to provide residents with regular updates on the investigation, future EtO interventions and emission monitoring and answers to questions. US EPA informed the Health Department that both Medline and Vantage Specialty Chemical have voluntarily opted to install additional controls to reduce their ethylene oxide emissions. The emissions from both Vantage and Medline are well below the prescribed limits in their permits. Air monitoring is set to occur around the Vantage site after the additional controls have been installed.

Trustee Thorstenson asked about well-water testing. Mr. Mackey said testing took place in Willowbrook and the results came back negative for contamination. He stated the LCHD is of the opinion there is no need for testing here.

Trustee Jacobs asked about two violations Vantage had. Mr. Mackey stated they were not emissions related.

Trustee Hood asked whose job is it to set EtO emission levels? Mr. Mackey said the EPA. Trustee Hood asked what the Village could do to assist. Mr. Mackey stated the Village should continue its efforts to remain in communication with the various entities and continue to collection information.

Trustee Balmes asked about cancer information. Mr. Mackey said the County does not maintain that information.

Mayor Kovarik stated Trustee Hood would like to create a committee to share information, collect data, etc... This committee would include stakeholders from various entities, including the LCHD and that the Village would be following up at the future date.

**Bryan Winter
Village Attorney
Village of Gurnee**

Attorney Winter reviewed the hierarchy of regulatory authority of each level of government with respect to air emissions. He stated the Federal government by acts of Congress can preempt and become the dominate force in creating regulations and enforcing them. With respects to air emission that regulation is the Clean Air Act (CAA). Under the CAA a state can submit a plan for implementation of the Act. The County addresses public needs and assists municipalities in public health issues. Attorney Winter stated he concurs with the statement earlier that the County Health Department has no regulatory authority. He then reviewed municipal home-rule status. He stated that municipalities have unique boundaries that do not lend themselves for take a regional approach to an issue.

Attorney Winter then reviewed some examples of Federal preemption, including the Clean Water Act, the Clean Air Act, Federal Railroad Safety Act, Consumer Product Safety Act, Food and Drug Administration, etc. He stated the American Bar Association did a study where Federal preemption exists and found over 340 areas of regulation.

He next provide a high-level summary of the Clean Air Act, noting that

Federal preemption has been invoked as it relates to clean air. The US EPA delegates authority to achieve set standards to the states. Each state can submit a State Implementation Plan that sets permit procedures and additional regulatory authority. While they do this, the US EPA does not relinquish its control.

Attorney Winter next reviewed Home Rule Authority. Home Rule authority, derives from the 1970 State Constitution which provides in Article VII, Section 6(a): *A Home Rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt.*

He stated that many times there is confusion over home rule designation and the amount of power it authorities. As it relates to limitations of Home Rule power, Attorney Winter stated the key phrase is pertaining to its government and affairs. This has been interpreted by courts to prohibit regulations that extend beyond municipality or attempt to supersede state regulations. In addition, Constitutional convention debate minutes, included the following: *“Control of air and water pollution, flood plains and sewage treatment are often cited as important examples of areas requiring regional or state wide standards and controls.”* He stated this is why municipalities have not instituted local air emission regulations....they do not have the authority.

In regards to authority for State environmental regulations, Article XI of the State Constitution which provides: *“The public policy of the State and the duty of each person is to provide and maintain a healthful environment for the benefit of this and future generations. The General Assembly shall provide by law for the implementation and enforcement of this public policy”*. The Illinois Supreme Court has interpreted this provision to mean: *“[T]he General Assembly [will] provide leadership and uniform standards with regard to pollution control”*

Attorney Winter concluded with the role of the Village going forward, including requesting continued consultations with the US EPA and IEPA regarding air emission standards and health assessment information, requesting the US EPA and IEPA to review and evaluate air testing protocols, validate testing procedure and evaluate results of ambient air testing and supporting legislative initiatives at the State and Federal levels to enact comprehensive regulations consistent with current health risk studies. He stated the US EPA has agreed to review fence line testing protocol. The US EPA also stated the month long testing period is very comprehensive. Vantage will not be conducting the testing, rather an independent third party will be and these results will be provided to the US EPA.

**Melinda Bush
State Senator
31st District**

Senator Bush provided the Village Board an update on EtO and what is happening at the State level. She stated EtO is one of the Top 10 traded commodities in the world that is used in many different manufacturing and sanitizing efforts.

Senator Bush stated at the end of session a few Bills were introduced in the House but they did not move out of Committee. Senator Bush stated she was recently appointed Chairwoman of the Environmental Committee. She has talked to the Committee and expects that legislation will be introduced shortly that will impact the pounds of emissions that a facility is allowed to release. She stated efficiency and tonnage must both be looked at. The Senator continued to state the legislation may look at what needs to be sterilized and how it would be sterilized. The concerned parties will also be meeting with the new head of the IEPA. The meetings at this point will not include the business community, however she has visited the facilities to learn more about how they use EtO. She expects the regulations to be much stronger than the Federal level. There are currently six states that are stricter than the Federal government, she expects the Illinois regulations to be stricter. She stated however these discussions are just beginning.

Trustee Ross asked if engineers are assisting in the discussions since it is such a complicated issue. Senator Bush stated yes. She continued to state that they are also listening to the businesses, but that the number one priority is public health. The Senator stated there is not a replacement today for EtO for the sterilization for plastic products. She also stated no country or state has banned the use of EtO.

**John Kavanagh
Fire Chief
Gurnee Fire
Department**

Trustee Hood asked how residents can get more involved. The Senator stated residents are free to contact their legislators and should follow legislation including filing a witness slips in support or opposition. She continued to state the Village does a very good job communicating with her and her office. Trustee Hood then asked for greater detail on potential legislation. The Senator stated her opinion is Senator Curran will carry the bill, an immediate ban is not likely though a ban over time may be a possibility. She believes tonnage will get to 99.9%

Trustee Jacobs asked what the Village Board can do to assist. The Senator stated the Village has been actively involved to date and should continue these efforts.

Chief Kavanagh explained the Fire Department's community risk reduction program of identifying target hazards on an all hazards basis. He stated the Department walks through and/or trains at these facilities on a regular basis. These facilities range from chemical companies to Gurnee Mills, Six Flags and all the schools. The Fire Department last trained at Vantage in the summer of 2018. Chief Kavanagh stated the Department has a good working relationship with Vantage's safety team. The Department finds that these target hazards though high risk have the proper safety equipment in place. Vantage specifically has its tank farm covered with a deluge system and has a pump house in place to supplement water flow. Additionally, Vantage's has an alarm system to detect a chemical leak and fire condition.

Trustee Jacobs read a prepared statement regarding ethylene oxide stating it is a very important issue to the Village Board that it will continue to pursue to ensure our community is safe for all.

Trustee Hood stated he agrees with Trustee Jacobs' statement.

**B. APPROVAL OF
CONSENT AGENDA**

It was moved by Trustee Balmes, seconded by Trustee Jacobs to approve the Consent Agenda as presented.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Jacobs, Ross

NAY: 0- None

ABSENT: 1- Garner

Motion Carried.

**C. CONSENT
AGENDA /
OMNIBUS VOTE**

The Village Administrator read the consent agenda for an omnibus vote as follows:

1. Approval of minutes from the January 7, 2019 meeting.
2. Approval of Res. 2019 - 01 authorizing the Village Administrator or designee to negotiate and approve a contract with the optimal service provider for the provision of electricity for water pump stations as obtained through the Northern Illinois Municipal Electric Cooperative (NIMEC).
3. Approval of Police Officer Dan Ruth's request to participate in the Village's tuition assistance program in pursuit of an Master's Degree in Law Enforcement and Public Safety Leadership from the University of San Diego.
4. Approval of Information System Division's recommendation to award the 2019 Server Storage Replacement Project to the low bidder, CDWG, at a cost of \$52,444.43.
5. Approval of Public Works recommendation to award a three year contract for mowing of Class A and C properties to Sebert Landscaping at an annual cost of \$56,448.00.
6. Approval of Public Works recommendation to award a three year contract for mowing of Class B properties to the low bidder, Gilio Landscape Contractors, at an annual cost of \$39,708.00.
7. Approval of Payroll for period ending January 4, 2019 in the amount of \$848,088.21.

8. Approval of Payroll for period ending January 18, 2019 in the amount of \$801,634.54.

9. Approval of Bills for the period ending January 28, 2019 in the amount of \$1,065,650.93.

It was moved by Trustee Balmes, seconded by Trustee Ross to approve the Consent Agenda for an omnibus vote as read.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Jacobs, Ross

NAY: 0- None

ABSENT: 1- Garner

Motion Carried.

D. PETITIONS AND COMMUNICATIONS

1. Confirmation of FY 19/20 Budget Hearing Dates:

- 5:00 P.M., March 4, 2019 and;
- 7:00 P.M., March 18, 2019 (if needed).

E. OLD BUSINESS

None.

F. NEW BUSINESS

1. Approval of Ord. 2019 - 04 authorizing execution of a Professional Services Agreement with Clark Dietz, Inc. for engineering services for the 2019 Delany Road and the 2020 Old Grand Avenue Phase 1 & II watermain replacement projects.

Mr. Muetz said both the Delany Road and Old Grand Avenue water man have a significant break history. As a result staff is planning to replace the watermain on Delany late next fiscal year followed by Old Grand in FY 20/21 in two phases. Replacement of this 5,600 feet of watermain includes the need for design and permitting, including obtaining permits from Illinois Environmental Protection Agency, Illinois Department of Transportation and the Canadian Pacific Rail Road. Clark Dietz was selected through a qualifications-based process in 2016 to design water main replacement improvements. The Village has been working with Clark Dietz on multiple projects since 2016 and has been very pleased with the company and its work product. Staff believes since these projects are in close proximity to each other having one consultant would provide the best results. Clark Dietz provided proposals for each section of work totaling \$99,450.00. Staff is requesting to move forward with Clark Dietz for all three project at the cost not to exceed \$100,000.00.

It was moved by Trustee Ross, seconded by Trustee Jacobs to approve of Ord. 2019 - 04 authorizing execution of a Professional Services Agreement with Clark Dietz, Inc. for engineering services for the 2019 Delany Road and the 2020 Old Grand Avenue Phase 1 & II watermain replacement projects.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Jacobs, Ross

NAY: 0- None

ABSENT: 1- Garner

Motion Carried.

2. Approval of Ord. 2019 - 05 authorizing and approving the execution of an agreement for Alarm Monitoring and Receiving System Equipment and Services with Johnson Controls Security Solutions LLC.

Mr. Muetz said businesses that use Johnson Control Security Solutions for alarm services are directly connected to the Gurnee Dispatch Center. This direct connection is a benefit to the business as it eliminates the need for a third party to contact dispatch. Rather, when an alarm is

activated, dispatch send out the appropriate police or fire personnel immediately. The relationship between Johnson and Gurnee is governed via a service agreement. The agreement expired in 2016 and since has auto-renewed on an annual basis. With the addition of the Management Analyst position at the Fire Department, staff has been able to focus attention on revising the contract and securing updated technology. Highlights of the contract include:

- Provide monitoring services for all Village locations at no charge to the Village
- Update the wireless radio receives with the assistance of Village of Gurnee IS Department at no charge to the Village
- Update the Automation software and hardware with the assistance of the Village of Gurnee IS Department at no charge to the Village
- Fees for existing business customers remain flat
- Batteries are now included as part of the quality assurance program at no cost to the business or Village.

It was moved by Trustee Balmes, seconded by Trustee Jacobs to approve of Ord. 2019 - 05 authorizing and approving the execution of an agreement for Alarm Monitoring and Receiving System Equipment and Services with Johnson Controls Security Solutions LLC.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Jacobs, Ross

NAY: 0- None

ABSENT: 1- Garner

Motion Carried.

3. Approval of Ord. 2019 - 06 authorizing the Mayor to sign an intergovernmental agreement with Lake County for intersection improvements at Hunt Club Road and Illinois Route 132.

Mr. Muetz said Lake County will be performing an intersection improvement at the intersection of Hunt Club Road and Grand Avenue. The construction limits will be from the Gurnee Mills/Sam's Walmart entrance south to Dada Drive and from the Sam's Club/Target entrance east to Gurnee Mills West/Menards. The improvement will include resurfacing, median replacement, traffic light improvements, street light improvements and pedestrian improvements. Muetz stated in addition the County will be adding protected dual left-hand turns for northbound and southbound lanes on Hunt Club Road at Grand Avenue. He stated the total project is \$4.6 million, with the Village's share being around \$368,000. Under the terms of this agreement, the Village will be responsible for 100% of the cost for the sidewalk and street lighting improvements and 20% of the cost for the signalized pedestrian accommodations and Right-of-Way acquisitions. This project has been in the works for a number of years and staff was aware of the cost-sharing. Funds have been included in the FY 19/20 Proposed Budget and were discussed during the Multi-Year Capital Plan presentation on December 17, 2018. The agreement is consistent with past agreements we have entered into with the County.

It was moved by Trustee Balmes, seconded by Trustee Jacobs to approve of Ord. 2019 - 06 authorizing the Mayor to sign an intergovernmental agreement with Lake County for intersection improvements at Hunt Club Road and Illinois Route 132.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Jacobs, Ross

NAY: 0- None

ABSENT: 1- Garner

Motion Carried.

4. Approval of Fuqua Winter Ltd. legal bill related to Electoral Broad process in the amount of \$4,545.00.

Mayor Kovarik said two objections were filed related to petition papers for the April 2nd Election. As a result, the Village was required to convene its Electoral Board. The Board appointed Attorney Winter as legal counsel to assist with the process. Now that the process is complete, Attorney Winter has submitted the invoice for his services.

It was moved by Trustee Ross, seconded by Trustee Thorstenson to

approve of Fuqua Winter Ltd. legal bill related to Electoral Broad process in the amount of \$4,545.00.

Roll call,

AYE: 5- Balmes, Hood, Thorstenson, Ross. Kovarik

NAY: 0- None

ABSTAIN: 1- Jacobs

ABSENT: 1- Garner

Motion Carried.

G. PUBLIC COMMENT

**Tim Garrity
1535 Yew Court
Gurnee, IL**

Mr. Garrity thanked the Mayor and Village Board for the comprehensive update on ethylene oxide. He stated a lot of misinformation has been posted online and appreciates the update. He noted it was unfortunate that those who have attended past meeting to express concern were not in attendance. He concluded by thanking the Board for working with other agencies to address this issue.

**Jolanta Pomiotlo
4487 Sheffield Ct
Gurnee, IL**

Ms. Pomiotlo stated the presentation was incredibly informative but she was disappointed it took three months. She shared information regarding U.S. Senator Duckworth and allegations she has made against the EPA. She stated she does not trust the EPA to protect residents. She concluded by stating she will be sponsoring a forum on February 3rd at 1:30pm at the Warren Newport Public Library and the Village Board is invited to participate.

Closing Comments

None.

Adjournment

It was moved by Trustee Balmes, seconded by Trustee Jacobs to adjourn the meeting.

Voice Vote: ALL AYE: Motion Carried.

Mayor Kovarik adjourned the meeting at 8:33 p.m.

**Andrew Harris,
Village Clerk**
