

Minutes of the Special Meeting of the Village of Williamsville Board of Trustees held in Village Hall, 5565 Main Street, Williamsville, New York, on Thursday, September 7, 2006 at 5:51 p.m.

Present: Mary E. Lowther, Mayor
Beatrice A. Slick, Trustee
Richard Pl Sweeney, Trustee
Basil J. Piazza, Trustee
Brian J. Geary, Trustee

Sally A. Kuzon, Administrator/Clerk-Treasurer

Mayor Lowther opened the special meeting at 5:51 p.m. with the Pledge of Allegiance.

ON MOTION by Mayor Lowther, seconded by Trustee Geary, it was moved to open the public participation portion of the meeting at 5:56 p.m.

Unanimously carried.

The following individuals spoke in opposition to the 2 resolutions on the agenda tonight:

Joseph Frese, 275 Mill Street – Mr. Frese is not sure what the meeting is all about tonight or why it is happening. He is concerned because he has been a firefighter for 27 years, protecting the Village and is 3 years away from collecting an award he feels he is entitled to, and the Village Board is trying to raise the age to 60. He is concerned about the legalities of this and feels the Village is opening itself up for an age discrimination suit which he will start if they raise the entitlement age to 60. He doesn't think it is fair to any of the firefighters that have been serving this community for years and does not know where the Village Board is coming from especially with a meeting like this, and meeting in the office with more than 3 members of the Village Board which is illegal. He doesn't know why the Village is doing this especially because there isn't even a state law requiring this and the Village Board is jumping to accommodate themselves and the community with money they are only going to put into the Mill, which has been a loss from the beginning. He would like to hear from the Village Attorneys as a Village resident because he feels that raising the entitlement age to 60 is age discrimination.

Chief Zymanek, 90 Orchard Pl. – Chief Zymanek stated that he sent a letter to every Board member regarding this issue and did not receive one telephone call back from anyone, with the exception of Sally, who made sure the members of the Board received the letter. This issue goes back to Attorney Whissel and Attorney Hayes who understood the program was designed to have a cap of 65 firefighters. With that in mind, and when you eliminate the age 55 entitlement, the fire department could have 65 firefighters all over the age of 55 on the active roles, and not have one of them qualify to be an interior firefighter. They understood the program was an attendance based rather than performance based program which could restrict the number of interior firefighters if the age was increased beyond 55. At the last meeting regarding this issue when the Village

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Attorney was here, Tony Schueckler explained how the Fire Department put the money into the referendum to change the entitlement age to 55 and the buy back and there is nobody in the Fire Department who is looking for retroactivity or amendments to the current program. Tony asked if someone turning 55 could sign a waiver waiving their right to building points after this age. Also presented that day were the numbers from Penflex which indicated the annual contribution was going to go up, the possibility of raising the entitlement age to 60 or 62, or reducing the monthly award from \$20 to \$15. He and Tony understood from that meeting that nothing would happen until the waiver issue was answered and then take the next step. He doesn't understand why they are rushing to put this on the November ballot and why there was no discussion with the Fire Department about increasing the entitlement age to 60. He understands the Village Board are the Fire Commissioners and they are exerting their authority over them on this issue and the cleaning issue downstairs. This authority has not been exercised in over 150 years that the fire department has been in existence and his question is why now and why without allowing him to sit in on the meetings to give his input. This department does a lot for the Village including, the use of a truck and operator to clean the siphon, Old Home Days, Halloween parade, Christmas Caroling, Christmas tree lighting, and Winterfest. He has done more for the Village over the 9 years that he has been Chief than ever before because they are willing to do things for the Village. Now, they feel like they are being back-doored on this situation. He did not get a call from the Fire Department liaison or any of the Board members that are new to this. He believes this is underhanded and does not feel he will get anyone to do anything except answer fire calls which they are bound by law to do. The people being hurt by this are the people that have put in 30-40 years as volunteers and had planned on collecting in a few years. He sees this as a major difficulty between the Fire Department and the Village. He constantly defends the Village Board and takes hits on the its behalf and believes this is wrong. They have discussed this issue with the last 3 Village attorneys and now the Village is moving forward with resolutions that may not even be necessary. They have had no input on the numbers that Penflex has put together and feel they should because they are the ones that know the numbers and who will max out and who won't.

Richard Andrews, 40 Stanton Street – Mr. Andrews would like to hear from the Board because his guess is that 4 out of the 5 members don't know much about the program. Trustee Geary said he is somewhat aware of it because he was with a rescue company in the 1980's. He made sure this evening that Trustee Slick and Trustee Piazza had the memo from the Chief because they did not have it before tonight. Chief Zymanek stated he emailed the memo to each Board member personally. Mr. Andrews questioned how all this came about. He wants to know which of the Board members brought this about? He had discussed the program with Sally. He spoke with Mayor Lowther as late as last night and she did not indicate there would be a resolution on the agenda this evening relating to changing the age from 55 to 60 to collect the monthly service award. He agrees with Joe Frese because he is 3 years away from collecting his monthly benefit also, and feels it is unfair to slam the door on them now. As far as he knows, nothing has been presented to the Village by the State. He spoke to Mike Wutz, the President of

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FASNY, who confirmed this. The resolutions indicated a savings by instituting the resolution increasing the entitlement age to 60 and he wondered where the numbers came from. Sally indicated they came from Penflex. Mr. Andrews indicated these numbers assume that all members max out and he knows that will not happen. The numbers of people maxing out are not even in the 10% range based on the fireman they see starting today. Mayor Lowther asked if he saw the cap being a problem. Mr. Andrews indicated the cap would be a problem, but he thinks the Penflex numbers are wrong because they represent all the firefighters maxing out which he knows will not happen because they drop out after 3 or 4 years and are not vested. To get to 40 years is rare. There are only two 50 years members that remained active. He believes the numbers being given to the residents in the resolution are erroneous and they will think the Village is saving a ton of money. He questions the figures and the fact that the Village is going ahead with this without even consulting the Fire Department and they are the ones affected by it. The President didn't know anything about it until 2 days ago. He doesn't understand why the Board can't step back and take a look at this for the June election. He votes along with Trustee Sweeney at Mill Middle school and doesn't know how only Village residents will be allowed to vote on this referendum. Mayor Lowther indicated that the Erie County Board of Elections is aware of this. He would like more information from the State Attorneys and does not believe the numbers from Penflex are true. He wants the Board to put this on the June 2007 election ballot. Mayor Lowther asked Mr. Andrews if he is aware that the numbers given to us came from Penflex, who is the actuarial firm hired by the Village. He is aware of this and maintains the numbers are wrong, because they represent all the members maxing out and that simply does not happen. Mayor Lowther said the reason why this meeting is being called tonight is because it must be done 60 days prior to the November election. He is aware of that and feels nothing will be lost if the Board waits until the June 2007 Village election.

James Oliveri, 73 S Harvest Road – Mr. Oliveri stated that the only way a person can max out is if the Board raised the number to age 60. Don't forget that not all of this service award is funded by the Village and that approximately 52% is put in by the Fire District. He asked that the Village back off. He is a former Chief, and there has never been a fight between the Village and the Fire Department and he doesn't think they want to start now.

Al Weisser, 510 Mill Street - Mr. Weisser stated that he is a 42 year member of the Department and when this is taken back to their membership they will not be happy and will not want to support Village sponsored events.

James Oliveri, 73 S. Harvest – Mr. Oliveri asked if Penflex had the age of the firemen when they put these numbers together because if they did have the ages, they would be able to tell that very few firefighters could max out. He felt the Village should ask Penflex how many firefighters could max out and then a true cost could be calculated.

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Joseph Frese, 275 Mill Street – Mr. Frese was a Village Board member for 12 years, and he is astonished that the Fire Department was not included in this discussion and especially that the Chief was excluded. He does not believe one of you at this table knows what goes on in the Fire Department, including Sally Kuzon, whose husband is an honorary fireman. He wants the Board to remember that 54% of the cost to run the Fire Department comes from the Town.

Chief Zymanek, 90 Orchard Pl. – Mr. Zymanek wanted to know if the Village Attorney contacted Tom Jones, the Town Attorney which was discussed at the meeting when this first came up. Mayor Lowther indicated she did not because the Town has their own set of difficulties as many of the firefighters may be aware. The fire budget was cut 10% last year and it looks as though that may happen again this year. We met with Chief Zymanek and Tony Scheuckler and discussed the discrimination issue that could face the Village as it has in Clarence Center which is under appeal because it was found to be discriminatory. At the Fire Department's request, the Village Attorneys were asked if the firefighters could sign a waiver, waiving their future right to benefits and the Village Attorneys said this would be illegal and not binding. They said it was in the best interest of the Village Board, Fire Department and residents to get this issue off the table and allow service credit after the age of 55. Penflex was asked to calculate the increased contribution on an annual basis. She does not want the Village to ignore this issue and then have the State come back in 3 or 4 years and say this practice was discriminatory and have to fund this benefit retroactively. Chief Zymanek said he agreed with her and wanted this issue brought back to the fire departments for discussion because he too is a Village resident and did not want that to happen. He felt that the second resolution was hurting guys that are currently 54 and this resolution was discriminatory when a firefighter turned age 60. Mayor Lowther said this is not discriminatory and is a gift from the community and not the Village Board.

The following issues were brought up by several members of the audience:

- Review accruing points by performance.
- EMS cards after 15 years.
- Review the whole program at one time and not components.
- New members of the Village Board are not aware of how the Fire Service Award program works.
- Need for a working meeting with the Village Board, Fire Department, Attorneys and Penflex.
- Chief Zymanek indicated there are some people questioning Penflex's investment practices and want to do away with them.
- Chief Zymanek wants to have the WFD tell Penflex the configuration of the department, participation and projections and tell them how to calculate accordingly.
- Members want to work with the Village and Penflex to see how the numbers are achieved.

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- Town of Amherst Fire District budgets are over \$1million versus the Village that is half that. The Fire Company also buys chiefs cars and fire apparatus for the Village.

Trustee Sweeney recommended they end the debate because he is becoming hostile towards the position of the Fire Department. He believes the public participation has surpassed normal standards.

Chief Zymanek would like an opportunity to work with the Village to get the best program for the Village and Fire Service.

Trustee Sweeney believes their position has been adequately and abundantly explained.

Mayor Lowther thinks it's necessary to hear the Fire Department. She does not want to have the WFD ignore requests from the Village. Chief Zymanek assured her that would not happen and they will continue to do what they have to do. He felt he should have been told about the resolutions before he came in this evening.

Rick Andrews feels like he has been told all along that he can retire at 55, and now when he is getting ready to retire the Village tells him it will now be when he turns 60.

Trustee Sweeney indicated the program will allow him to increase his ability to earn service credit until age 60.

ON MOTION by Mayor Lowther, seconded by Trustee Piazza, it was moved to close the public participation portion of the meeting at 6:46 p.m.

Unanimously carried.

Trustee Slick appreciates all the Firefighters have said this evening and the services they provide to the Village.

Chief Zymanek asked that the Village Attorneys introduce themselves to him out of respect and courtesy since he is a department head. Mayor Lowther indicated they were introduced to everyone at the work sessions. Chief Zymanek indicated he has not had any contact with them as with the past Village Attorneys, and requests that they contact him with questions.

Mayor Lowther feels that this contentious relationship between the Village and the Fire Department has been building over the last several months. She is uncomfortable with

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this tension and would ask that it stop. It could be that the resolutions on the agenda tonight may move forward in the future.

Rick Andrews requested this issue be moved to the June 2007 Village election.

Trustee Sweeney assumed these issues were being discussed with the Fire Department.

Trustee Piazza reminded Trustee Sweeney that all of the conversations relating to the fire Service Award Program were held in executive session and could not be discussed outside.

Trustee Geary thought the issues were cut and dry and had been discussed for 10 years and that the resolutions would be in the best interest of most and hurt the least amount of members. After the meeting tonight he realizes there are more questions than answers.

Trustee Piazza would like to put the decision off and have the necessary dialogue with the Fire Department.

Trustee Slick would like the resolutions tabled.

ON MOTION Mayor Lowther, seconded by Trustee Slick, it was moved to **TABLE** the following resolution:

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF WILLIAMSVILLE AMENDING THE FIRE SERVICE AWARD PROGRAM TO ALLOW FOR THE ACCUMULATION OF SERVICE AWARD POINTS BY PARTICIPANTS AFTER ATTAINING THE ENTITLEMENT AGE

WHEREAS, the Village of Williamsville has previously adopted a Service Award Program for Volunteer Firefighters (the "Program"), and

WHEREAS, the Entitlement Age under the Program as defined by General Municipal Law Section 215 is 55 years of age, and, and

WHEREAS, the Program currently prohibits the accumulation of service points, after a participant has attained the Entitlement Age and has begun receiving service awards, whether or not such participant is an active volunteer firefighter, and

WHEREAS, General Municipal Law Section 217(n) allows for an active volunteer firefighters' service award program to provide for the crediting of years

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of active firefighting service for periods after an active volunteer firefighter has reached the Entitlement Age and is receiving a service award, and

WHEREAS, General Municipal Law Section 216.3(d) permits the amendment of the Program subject to voter approval, and

WHEREAS, the Board of Trustees of the Village of Williamsville, after due deliberation, finds it in the best interest of said Village to amend the Program to allow credit for years of active firefighting service for periods after an active volunteer firefighter has reached the Entitlement Age and is receiving a service award.

NOW, THEREFORE, BE IT RESOLVED, the Program is amended effective January 1, 2007 to permit the crediting of years of active firefighting service for periods after an active volunteer firefighter has reached the Entitlement Age and is receiving a service award so long as the firefighter remains active and therefore increase the firefighters' monthly service award payments by \$20 effective the January 1st following the year in which the additional service is earned, and it is further

RESOLVED, the provisions of this Resolution be submitted to the qualified voters of the Village of Williamsville at the election to be held on the 7th day of November, 2006, and it is further

RESOLVED, the foregoing shall be submitted in the form of a ballot proposition as follows:

PROPOSITION NO. 1 : SHALL THERE BE APPROVED A RESOLUTION OF THE VILLAGE OF WILLIAMSVILLE BOARD OF TRUSTEES ADOPTED SEPTEMBER 7, 2006 WHICH AMENDED THE VILLAGE VOLUNTEER FIREFIGHTERS' SERVICE AWARD PROGRAM EFFECTIVE JANUARY 1, 2007 TO ALLOW FOR THE CREDITING YEARS OF ACTIVE FIREFIGHTING SERVICE FOR PERIODS AFTER AN ACTIVE VOLUNTEER FIREFIGHTER HAS REACHED THE ENTITLEMENT AGE AND IS RECEIVING A SERVICE AWARD AND THEREFORE INCREASE THE FIREFIGHTERS MONTHLY SERVICE AWARD BY \$20 EFFECTIVE THE JANUARY 1ST FOLLOWING THE YEAR IN WHICH THE ADDITIONAL SERVICE IS EARNED, AT AN INCREASE IN ESTIMATED TOTAL ANNUAL COST FROM \$94,600 TO \$118,750, WHICH REPRESENTS AN ESTIMATED COST OF \$1,600 PER PARTICIPANT, WHICH SUM INCLUDES ESTIMATED ANNUAL ADMINISTRATIVE FEES OF \$3,750, AND PROJECTED MONTHLY AWARDS

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TO BE PAID TO ELIGIBLE VOLUNTEER FIREFIGHTERS EQUAL TO \$20 TIMES THE NUMBER OF YEARS OF SERVICE CREDIT EARNED?

Unanimously carried.

ON MOTION by Mayor Lowther, seconded by Trustee Geary, it was moved to **TABLE** the following resolution:

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF WILLIAMSVILLE AMENDING THE FIRE SERVICE AWARD PROGRAM TO INCREASE THE ENTITLEMENT AGE

WHEREAS, the Village of Williamsville has previously adopted a Service Award Program for Volunteer Firefighters (the "Program"), and

WHEREAS, the Entitlement Age under the Program as defined by General Municipal Law Section 215 is 55 years of age, and, and

WHEREAS, General Municipal Law Section 216.3(d) permits the amendment of the Program subject to voter approval, and

WHEREAS, the Board of Trustees of the Village of Williamsville, after due deliberation, finds it in the best interest of said Village to amend the Program to increase the Entitlement Age.

NOW, THEREFORE, BE IT RESOLVED, the Program is amended effective January 1, 2007 the Entitlement Age under the Program is hereby increased to Sixty (60) years of age, and it is further

RESOLVED, the provisions of this Resolution be submitted to the vote of the qualified electors be submitted to the qualified voters of the Village of Williamsville at the election to be held on the _____ day of _____, 200_, and it is further

RESOLVED, the foregoing shall be submitted in the form of a ballot proposition as follows:

PROPOSITION NO. 1 : SHALL THERE BE APPROVED A RESOLUTION OF THE VILLAGE OF WILLIAMSVILLE BOARD OF TRUSTEES ADOPTED SEPTEMBER 7, 2006 WHICH AMENDED THE VILLAGE VOLUNTEER

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FIREFIGHTERS' SERVICE AWARD PROGRAM TO INCREASE THE ENTITLEMENT AGE AT WHICH VOLUNTEER FIRE FIGHTERS ARE TO BE PAID SERVICE AWARD BENEFITS FROM AGE 55 TO AGE 60 EFFECTIVE JANUARY 1, 2007 AT A DECREASE IN ESTIMATED TOTAL ANNUAL COST FROM \$118,750 TO \$95,750, WHICH REPRESENTS AN ESTIMATED COST OF \$1,300 PER PARTICIPANT, WHICH SUM INCLUDES ESTIMATED ANNUAL ADMINISTRATIVE FEES OF \$3,750, AND PROJECTED MONTHLY AWARDS TO BE PAID TO ELIGIBLE VOLUNTEER FIREFIGHTERS EQUAL TO \$20 TIMES THE NUMBER OF YEARS OF SERVICE CREDIT EARNED?

Unanimously carried.

ON MOTION by Mayor Lowther, seconded by Trustee Piazza, it was moved to adjourn the special meeting at 6:50 p.m.

Unanimously carried.

SALLY A. KUZON
Administrator/Clerk-Treasurer