Winnetka Village Council
Regular Meeting
Winnetka Police Department
410 Green Bay Road
Tuesday, February 7, 2012
7:30 p.m.

Emails regarding any agenda item are welcomed. Please email rbahan@winnetka.org, and your email will be relayed to the Council members. Emails for the Tuesday Council meeting must be received by Monday at 4 p.m. Any email may be subject to disclosure under the Freedom of Information Act.

AGENDA

1) Call to Order
2) Pledge of Allegiance to the Flag
3) Quorum
   a) February 14, 2012 Special Executive Session
   b) February 14, 2012, Study Session/Budget Meeting
   c) February 16, 2012, Budget Meeting
   d) February 21, 2012 Council Meeting
4) Approval of Agenda
5) Consent Agenda
   a) Village Council Minutes
      i) December 20, 2011, Regular Meeting 2
      ii) January 17, 2012, Regular Meeting 8
   b) Warrant Lists Nos. 1735 and 1736 11
   c) Resolution R-3-2012: Cook County GIS Data Sharing Resolution – Adoption 12
6) Stormwater Update 28
7) Ordinances and Resolutions
   a) Resolution R-4-2012: Kenilworth Fire Contract – Adoption 29
   b) Resolution R-5-2012: Supporting NWMC 2012 Legislative Program – Adoption 36
   c) Ordinance MC-1-2012: Coach House Amendments – Introduction 56
8) Public Comment
9) Old Business
10) New Business
11) Reports
12) Appointments
13) Executive Session
14) Adjournment

NOTICE

All agenda materials are available at villageofwinnetka.org *(click Council and then Current Agenda)*, the Reference Desk at the Winnetka Library, or in the Manager's Office at Village Hall (2nd floor).

Videos of the Village Council meetings are televised on Channel 10 every night at 7 PM and on Channel 18 M-F-Su at 7AM or 7 PM. Videos of the meeting may also be viewed on the Internet via a link on the Village's web site: villageofwinnetka.org.

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities, who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator – Liz Rosenthal, at 510 Green Bay Road, Winnetka, Illinois 60093, (Telephone (847) 716-3540; T.D.D. (847) 501-6041).

MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
December 20, 2011

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Police Department at 410 Green Bay Road on Tuesday, December 20, 2011, at 7:30 p.m.

1) Call to Order. President Tucker called the meeting to order at 7:33 p.m. Present: Trustees Arthur Braun, Gene Greable, Bill Johnson, Richard Kates, Chris Rintz and Jennifer Spinney. Absent: None. Also present: Village Manager Robert Bahan, Village Attorney Katherine Janega, Public Works Director Steve Saunders, Director of Community Development Mike D'Onofrio, Finance Director Ed McKee, and approximately 10 persons in the audience.

2) Pledge of Allegiance. President Tucker led the group in the Pledge of Allegiance.

3) Quorum.

   a) January 3, 2012. Meeting rescheduled to January 10, 2012.

   b) January 10, 2012 Rescheduled Regular Meeting. All of the Council members present indicated that they expected to attend.

   c) January 17, 2012, Regular Meeting. All of the Council members present indicated that they expected to attend.

4) Approval of the Agenda. Trustee Johnson, seconded by Trustee Spinney, moved to approve the Agenda. By roll call vote the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

5) Consent Agenda

   a) Village Council Minutes.

      i) November 1, 2011, Regular Meeting.

      ii) November 8, 2011, Study Session.

      iii) November 15, Regular Meeting.

   b) Warrant Lists Nos. 1729 and 1730. Approving Warrant List No. 1729 in the amount of $1,048,926.90, and Warrant List No. 1730 in the amount of $900,753.91.

   c) Ordinance M-17-2011: Approving Plat of Annexation for 7 Indian Hill – Adoption. An ordinance approving a plat of annexation for 7 Indian Hill Road, to bring the southerly portion of the Subject Property into the Village corporate limits.

   d) Resolution R-33-2011: Approving Plat of Consolidation for 7 Indian Hill – Adoption. A resolution approving a plat of consolidation for the Subject Property to form a single, new lot to ensure that the parcel is compliant with Village zoning, building and utility easement requirements.

e) Microsoft Office 2010 Software Upgrade. Authorizing the Village Manager to sign a purchase order with CDW in the amount of $47,990.65 to acquire Microsoft Office 2010 software for the Village.

Trustee Johnson, seconded by Trustee Spinney, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

6) Stormwater Update. Mr. Saunders reviewed his written report, which detailed progress made to date and future actions that will need to take place. After answering several questions from the Trustees, he reported that he plans to deliver a detailed feasibility report and a second cost estimate to the Council in the spring to help with funding discussions.

Trustee Braun asked if the Backflow Prevention Program omits commercial properties intentionally or if that was an oversight.

Mr. Saunders said the current ordinance deals only with single family homes, but that staff can do some research about the financial ramifications of including commercial properties and report back to the Council around budget time.

Manager Bahan noted that the original ordinance in 2006 did not intentionally exclude commercial properties; the Village simply had received more inquiries from single family homeowners.

Mr. D'Onofrio confirmed that there had only been one inquiry from a commercial property owner.

7) Ordinances and Resolutions.

a) Ordinance MC-6-2011: Amendments to Liquor License Regulations – Adoption. Attorney Janega reviewed amendments made to the Subject Ordinance as a result of the discussion by the Council at the time of introduction, and she noted that the Park District had reviewed and approved the proposed final ordinance.

Trustee Greable asked if the driving range was part of the golf course.

Tom Gullen, Park District Superintendent of Facilities, said the driving range is considered part of the golf course.

After a brief discussion, Trustee Spinney, seconded by Trustee Johnson, moved to amend Ordinance MC-6-2011 as submitted by the Village Attorney. By voice vote, the motion carried.

Trustee Johnson, seconded by Trustee Spinney, moved to adopt Ordinance MC-6-2011, as amended. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

b) Ordinance M-18-2011: 2011 Tax Levy – Adoption. President Tucker announced that the Village has stayed below tax caps since becoming a home rule unit.

Finance Director Ed McKee reviewed the tax levy ordinance and explained that the Village has focused in recent years on keeping the property tax levy increase below the rate of inflation, despite rising costs. He showed a comparison of Winnetka's share of

the total property tax levy with other taxing districts, and he said stormwater improvement funding will be discussed during the budget process.

Trustee Greable commented that the increase in the levy is due in large part to escalating costs for police and fire pension funding, and he asked Mr. McKee to draft a white paper on the pros and cons of truing up Winnetka's fiscal and levy years.

A brief discussion about changing the fiscal year to align with the calendar year followed.

Trustee Johnson, seconded by Trustee Spinney, moved to adopt Ordinance M-18-2011. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

c) Ordinance M-19-2011: 2011 Tax Abatement – Adoption.

There being no questions or comments, Trustee Johnson, seconded by Trustee Spinney, moved to adopt Ordinance M-19-2011. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

d) Ordinance M-20-2011: Tax Levy – SSA #3 – Adoption.

There being no questions or comments, Trustee Johnson, seconded by Trustee Spinney, moved to adopt Ordinance M-20-2011. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

e) Ordinance M-21-2011: Tax Levy – SSA #4 – Adoption.

There being no questions or comments, Trustee Johnson, seconded by Trustee Spinney, moved to adopt Ordinance M-21-2011. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

f) Ordinance M-22-2011: Tax Levy – SSA #5 – Adoption. Trustee Rintz made a correction to a typo in the fourth recital of the ordinance containing the total project cost. Mr. McKee confirmed that the project cost is $17,664.00 and the amount being levied is $4,240.

Trustee Johnson, seconded by Trustee Spinney, moved to adopt Ordinance M-22-2011 as corrected. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

8) Public Comment and Questions. None.

9) Old Business. None.

10) New Business.

a) Policy Direction: @ Property. Mr. D'Onofrio reviewed the request of @Properties for an expansion of their special use permit and zoning variations for lot coverage and rear yard setback in order to expand the existing building. He explained that the Subject Property is in the C-1 Limited Commercial zoning district, where real estate offices are allowed only as a special use, and the 20 x 50-foot addition at the rear of the building is being proposed to accommodate 12 additional agent desks.

Mr. D'Onofrio reported that the applicant's parking study, done by KLOA, concluded that there is sufficient parking in the vicinity to accommodate the request and that the Village Engineer has agreed with this conclusion. He added that, at the Zoning Board of Appeals (ZBA) hearing, some neighbors who oppose the request submitted a petition expressing concern that the expansion will increase traffic and aggravate a perceived parking shortage in the area.

Mr. D'Onofrio reported that (i) the ZBA recommended against granting the zoning variations, but recommended in favor of granting the special use permit; and (ii) the Plan Commission voted to recommend granting the special use permit on the condition that two curb cuts on Green Bay Road be removed to add three additional parking spaces in front of the empty lot to the north of the Subject Property.

The Council discussed parking in the area with Mr. D'Onofrio, who said he believes there is adequate parking, either on Green Bay Road or in the public lot to the east of Green Bay Road.

Mr. Mike Rourke of @Properties explained that the perception of a parking problem is created by the fact that the building on the Subject Property was vacant for ten years. He added that the impact of @Properties is consistent with permitted uses such as a retail stores, and is less than that of such permitted uses as an office or restaurant. He estimated that there are about 15 people in the office at peak times.

Mr. Rourke noted that @Properties rents a room at the Community House for its large monthly staff meetings, and that he has bought approximately 42 parking permits and encouraged his agents to use the lot across the street. He said his business has brought vitality to the Indian Hill business district, and he will be adding three additional spaces as a result of the expansion of the building.

Mr. Mike Golden of @Properties said that the office has only three full-time employees, and that a number of agents work out of the Highland Park office, which is why there are more licenses than there are desks at the facility. He explained that some of the more productive agents demand their own desk, no matter how infrequently they might use it, and thus there is a need to add more space to the office.

The Council asked questions and discussed the request with the applicants, after which President Tucker called for public comment.

John Louis, 22 and 40 Green Bay Road asked that another parking study be done, stating that he had concerns about the KLOA study because it was done on a holiday weekend and because more agents had been added since that time. He also distributed photos of the Subject Property and the vacant lot to the north.

President Tucker said parking is a major concern in the community and asked how many agents had been added since the study.

Mr. Golden said the number of agents operating out of the site is a moving target, as a few new ones are hired each month and other agents move to neighboring offices as space opens up. He added that the impact of the business on the surrounding area is reduced since much it is virtual and done from home or with mobile internet devices.

Attorney Janega reviewed the standards for granting special use permits and pointed out that the ZBA and Plan Commission both recommended that the special use be granted. She explained that the ZBA's standards for recommending zoning variations are more limited than the Council's, and that the ZBA could not find a basis for practical difficulty or particular hardship. She noted that the Council has authority to grant the variations if they are in harmony with the purpose and intent of the Zoning Ordinance if there are practical difficulties or hardships that prevent the applicant from meeting the letter of the Zoning Ordinance.

The Council had a thorough discussion about how to proceed.

Trustee Spinney said she would like to find in favor of the business to help it succeed but that the neighbors should come to an agreement.

Trustee Braun said he also favored helping the business succeed, but was bothered by the parking concerns.

Trustee Kates said the parking study makes sense and was done by a reputable firm, and questioned why the neighbors who signed the petition were not at the meeting if they had such dire concerns.

Trustee Rintz said it would be nice if all of the neighbors could agree, but the Council cannot legislate that outcome. He noted that the Subject Property was a vacant eyesore for 10 years before @Properties bought it, and that the Village needs to facilitate the expansion of commercial stock at the fringes of the Village as well in the main downtown areas.

Trustee Johnson said he would like to see @Properties succeed and asked that their employees park in the lot to the east.

Trustee Greable said he had visited the area three times and he thought the parking was adequate. He indicated that he believed a hardship existed for the applicant and that he was in favor of keeping @Properties in the Indian Hill Business District.

President Tucker said she was hearing that the consensus of the Council was to approve the special use and variations.

Attorney Janega said she would draft an ordinance for the Council's review and consideration.

11) Reports

a) Village President. President Tucker showed an example of a calendar from Metra and announced that entries are being solicited for the 2013 safety poster.

b) Trustees.

i) Trustee Kates reported the Park District Board held a meeting to discuss impermeable surface and underground stormwater storage on the Skokie playfields.

ii) Trustee Braun asked for an outline of the agendas in advance of the packets. President Tucker said this would not be possible, as the agenda does not coalesce until late each week. Manager Bahan said he could put a draft of upcoming issues in the Council's packets each week.

iii) Trustee Greable reported on the most recent Chamber of Commerce meeting.

c) Attorney. Attorney Janega reported that on December 7th she spoke at a conference for the Illinois Government Finance Officials Association about legal issues pertaining to collection of utility bills.

d) Manager. Manager Bahan thanked Trustee Kates for attending the Park District meeting, and said the Village is in discussions with the Park District about detention and storage in conjunction with the Village's stormwater mitigation efforts. He reported that the Metropolitan Mayors Caucus is wrapping up its study about the sharing of code enforcement services with neighboring communities, and added that he had recently attended the League of Women Voters holiday tea.

12) Appointments.

a) President Tucker announced the appointment of Ed Woodbury to the Board of Fire and Police Commissioners to replace Mike Duhl, who has resigned, effective immediately. Trustee Braun, seconded by Trustee Johnson, moved to approve the appointment. By voice vote, the motion carried.

13) Executive Session. None.

14) Adjournment. Trustee Johnson, seconded by Trustee Rintz, moved to adjourn the meeting. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None. The meeting adjourned at 10:55 p.m.

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Recording Secretary

MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
January 17, 2012

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Police Department at 410 Green Bay Road on Tuesday, January 17, 2012, at 7:30 p.m.

1) Call to Order. President Tucker called the meeting to order at 7:31 p.m. Present: Trustees Arthur Braun, Gene Greable, Bill Johnson, Richard Kates, Chris Rintz and Jennifer Spinney. Absent: None. Also present: Village Manager Robert Bahan, Village Attorney Katherine Janega, Public Works Director Steve Saunders, and approximately three persons in the audience.

2) Pledge of Allegiance. President Tucker led the group in the Pledge of Allegiance.

3) Quorum.

   a) February 7, 2012, Regular Meeting. All of the Council members present indicated that they expected to attend.

   b) February 14, 2012, Study Session (Budget Meeting). All of the Council members present, except Trustee Rintz, indicated that they expected to attend.

   c) February 16, 2012, Budget Meeting. All of the Council members present indicated that they expected to attend.

4) Approval of the Agenda. President Tucker announced that consideration of Resolution R-1-2012, Release of Executive Session minutes, has been removed from the Agenda for consideration at a later meeting, and Trustee Kates asked that the minutes for the December 6, 2011 Council Meeting be amended to reflect that the vote to reappoint Jan Bawden to the Plan Commission was not unanimous. Trustee Spinney, seconded by Trustee Johnson, moved to approve the Agenda, as amended. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

5) Consent Agenda

   a) Village Council Minutes.

      i) December 6, 2011, Regular Meeting Minutes, as amended.

   b) Warrant Lists Nos. 1733 and 1734. Approving Warrant List No. 1733 in the amount of $742,925.24, and Warrant List No. 1734 in the amount of $532,108.42.

   c) Resolution R-1-2012: Release Executive Session Minutes/Purge Tapes – Adoption. As noted earlier, this item was been removed from Agenda.

   d) Ordinance M-1-2012 – Landmark Designation: 545 Oak – Adoption. An Ordinance designating 545 Oak Street as a local landmark.

e) Ordinance M-2-2012 – Special Use Permit and Zoning Variations: @Properties, 30 Green Bay Road – Adoption. Grants a special use permit and variations from (i) the maximum permitted intensity of use of lot and (ii) the minimum required rear yard setback, to permit a building addition to the existing @Properties real estate office at 26-30 Green Bay Road.

Trustee Johnson, seconded by Trustee Spinney, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None.

6) Stormwater Update. Mr. Saunders briefly reviewed the materials distributed in the agenda packet, including an updated version of the project schedule for the tunnel Feasibility Study and the status of action on those steps and a preliminary project schedule for design engineering and permitting for the proposed tunnel, anticipating commencement of construction in late October of 2014. He pointed out that discussions about financing methods for the project are not accounted for in the schedule.

Mr. Saunders reported that staff and representatives from Christopher Burke Engineering had met with MWRD representatives to review the project and further discuss permit requirements. He said that the most important item to come from that meeting was the Executive Director's determination that as long as the Village receives joint permit approval from the IEPA, Illinois DNR, and US Army corps of Engineers, the MWRD permit would be handled at the staff level, rather than the Board level.

Mr. Saunders added that discussions were also held regarding the possibility of partnering with the MWRD in developing a pilot green initiative project to address infiltration and management of clean water discharges from buildings where these discharges are currently being improperly directed to the sanitary sewer system.

Mr. Saunders then responded to questions from the Trustees.

7) Ordinances and Resolutions. None.

8) Public Comment and Questions. None

9) Old Business. None.

10) New Business. None.

10) Reports

a) Village President. None.

b) Trustees.

i) Trustee Kates reported that he would be attending a Police Pension Board meeting later in the week.

ii) Trustee Johnson reported that he had attended the most recent Environmental & Forestry Commission meeting at which various green technologies were discussed in the connection with the Village's efforts to mitigate stormwater flooding.

iii) Trustee Spinney reported that she had attended the BCDC meeting at which the new Chairman, Jason Harris laid out his long term goals for the group.

c) Attorney. None.

d) Manager. Manager Bahan noted that although the @properties special use permit and zoning variations had been approved at tonight's meeting, the Village is still reviewing parking in the area with an eye toward freeing up some additional spaces.

11) Appointments. None.

12) Executive Session. Trustee Braun moved to adjourn into Executive Session to discuss Personnel and Collective Bargaining, pursuant to Sections 2(c)(1) and 2(c)(2) respectively, of the Illinois Open Meetings Act. Trustee Spinney seconded the motion. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None. The Council adjourned into Executive Session at 8:10 p.m.

The Council reconvened into Regular Session at 9:40 p.m. Present: President Tucker, Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None. Also present: Village Manager Rob Bahan and Village Attorney Katherine Janega.

13) Adjournment. Trustee Kates, seconded by Trustee Greable, moved to adjourn the meeting. By roll call vote, the motion carried. Ayes: Trustees Braun, Greable, Kates, Johnson, Rintz and Spinney. Nays: None. Absent: None. The meeting adjourned at 9:41 p.m.

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Recording Secretary

AGENDA REPORT

SUBJECT: **Warrant Lists Nos. 1735 and 1736**

PREPARED BY: Robert Bahan, Village Manager

DATE: February 1, 2012

Warrants Lists Nos. 1735 and 1736 are enclosed in each Council member's packet.

Recommendation: Consider approving Warrants Lists Nos. 1735 and 1736.

Agenda Report

Subject: **Resolution R-3-2012: Cook County Data Sharing Agreement**

Prepared By: Steven M. Saunders, Director of Public Works/Village Engineer

Date: January 25, 2012

In to assist in the maintenance and upkeep of data for the Village's Geographic Information System (GIS), the Village has found it beneficial to seek access to data developed by other governmental agencies. The Cook County Assessor's office has developed a dataset of digital information for the entire county, including property assessment data, property photographic images, and other mapping information useful for populating and maintaining the Village's GIS. The Assessor's office allows the Village to obtain this data at no charge to the Village so long as it is used for the purpose of performing official business.

In order to access the data, the Village must enter into an agreement with the County, and pass an authorizing resolution. Resolution R-3-2012 authorizes the Village to enter a data sharing agreement with Cook County for the purpose of sharing geographic data.

Recommendation:
Consider adoption of Resolution R-3-2012, authorizing staff to sign an intergovernmental agreement allowing the Village access to Cook County's digital GIS information.

A RESOLUTION
APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR
ACCESS TO GEOGRAPHIC INFORMATION SYSTEM (GIS)

WHEREAS, the Village of Winnetka ("Village") is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970 and, except as limited by Section 6 of Article VII of the Constitution of the State of Illinois of 1970, is authorized to 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; and

WHEREAS, pursuant to its home rule status and the IMC, the Village is granted all powers necessary to carry out its legislative purposes as to the general governance of the Village and its residents, including the development and use of property, the establishment and maintenance of basic infrastructure such as streets, water systems, sanitary and stormwater sewer systems, and the provision of public safety services; and

WHEREAS, in the performance of its general governmental responsibilities, the Village is constantly evaluating and accessing information regarding the physical and other attributes within the Village and adjacent to its boundaries; and

WHEREAS, the Cook County Assessor's Office has a geographic information system ("GIS") database that it is willing to make available to the Village at no cost; and

WHEREAS, GIS data sharing with the Cook County Assessor's Office will allow the Village to access GIS data from the Assessor that will facilitate the Village's decision-making process with respect to its management, provision, and maintenance of governmental services; and

WHEREAS, cooperation between and among governmental agencies and entities through intergovernmental agreements is authorized and encouraged by Article VII, Section 10 of the Illinois Constitution of 1970 and by the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

WHEREAS, the Village and the Cook County Assessor have negotiated an Agreement for Access to Geographic Information System in substantially the form attached to this

Resolution as Exhibit A (the "Intergovernmental Agreement");

NOW, THEREFORE, be it resolved by the Council of the Village of Winnetka as follows:

SECTION 1: Recitals. The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Approval of Intergovernmental Agreement. The Agreement for Access to Geographic Information System (the "Intergovernmental Agreement") is hereby approved substantially in the form attached to this Resolution as Exhibit A and, subject to final approval by the Village Attorney of the form of the Intergovernmental Agreement, the Village President and Village Manager are authorized to execute and seal the Intergovernmental Agreement on behalf of the Village.

SECTION 3: This Resolution is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 4: This Resolution shall take effect immediately upon its adoption.

ADOPTED this _____ day of _____, 2012, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

AGREEMENT
FOR ACCESS TO GEOGRAPHIC INFORMATION SYSTEM

This AGREEMENT is entered into as of the 7 day of February, 2012, by and between Village of Winnetka ("Agency") and the Cook County Assessor's Office (the "CCAO").

WITNESSETH:

WHEREAS, the CCAO has developed a Geographic Information System (the "GIS") consisting of cadastral data, planimetric data, assessment data, property images, digital orthophotography (aerial photos) and other data (collectively, such images, photos and data, "Assessor Data");

WHEREAS, portions of the GIS, and the related data dictionary, are copyrighted materials of the CCAO and/or Cook County of the State of Illinois ("Cook County");

WHEREAS, some of the Assessor Data in the GIS is only available to the public and to commercial users for a fee, as permitted by law;

WHEREAS, Agency has requested access to and license to use the GIS for use in performing its official functions (as set forth below);

WHEREAS, the CCAO in the spirit of cooperation desires to make the GIS available, efficiently and without charge, to Agency for use in performing its official functions; and

WHEREAS, Agency acknowledges and agrees that access to the GIS and/or Assessor Data is conditioned upon the agreement that access is provided as set forth in this Agreement solely for use in performing the official functions of the Agency, and that any other use, alteration, sale, dissemination, lease or transfer of the GIS and/or Assessor Data by Agency, or by any employee or agent of same, without written consent of the CCAO is strictly prohibited, and shall be deemed to warrant immediate termination of this Agreement, as well as entitle the CCAO to pursue any other remedies to which it is entitled.

NOW, THEREFORE, in consideration of the mutual promises and covenants and the terms and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. INCORPORATION OF RECITALS.

The foregoing recitals are incorporated into and made a part of this Agreement as if fully set forth herein.

SECTION 2. STATEMENT OF OFFICIAL PURPOSES; RESTRICTIONS ON USE.

For purposes of this Agreement, Agency represents and warrants as its official purpose for access to the GIS and Assessor Data as stated in Exhibit A and incorporated herein. Agency agrees that access to the

GIS and/or Assessor Data is conditioned upon and provided as set forth in this Agreement solely for its use in performing its official purposes (as described in Exhibit A). Any other use of the GIS or Assessor Data, without express written consent of the CCAO, is strictly prohibited, including the display, sale, transfer, lease, dissemination or lease of the GIS or Assessor Data in any location or manner in its current form, derivative or altered form, or otherwise. Any such prohibited use shall be deemed to be a breach which warrants immediate termination of this Agreement. This Section shall survive the termination of this Agreement.

SECTION 3. INFORMATION PROVIDED.

The CCAO agrees to provide Agency access to the GIS and Assessor Data only upon the conditions and based upon the representations and warranties set forth in this Agreement. In order to obtain specific Assessor Data, Agency must request Assessor Data by filing the attached exhibits with the Department of Automation of the CCAO (each such request, an "Information Request"). Each Information Request is subject to approval of the CCAO.

SECTION 4. LIMITED LICENSE TO USE.

Subject to the provisions of this Agreement, the CCAO hereby grants to Agency a non-exclusive, non-transferable license to use the Assessor Data only as specifically provided for in this Agreement. Agency acknowledges that the title, copyright and all other rights to the GIS and Assessor Data remain with the CCAO and/or Cook County. Neither Agency nor any other authorized user shall have any right, title or interest in the GIS or Assessor Data except as expressly described herein. The CCAO reserves the right to withdraw from the GIS and/or Assessor Data any item or part of an item for which it no longer retains ownership rights or which it has reasonable grounds to believe infringes copyright or is unlawful or otherwise objectionable.

SECTION 5. TERM AND EXTENSION.

This Agreement is for one year, effective from the date of execution. It will be extended annually for terms of one year each, unless, at least 30 days prior to the expiration of any term, either party notifies the other in writing of its intent not to renew the Agreement.

SECTION 6. DISCLAIMER OF WARRANTIES.

The GIS and the Assessor Data is provided "as is" without any warranty or representation whatsoever, including any representation as to accuracy, timeliness, completeness, infringement of rights of privacy, copyright or trademark rights or disclosure of confidential information. All burdens, including any burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use, rests solely on Agency and/or the requester. The CCAO and Cook County make no warranties, express or implied, as to the use of the GIS. There are no implied warranties of merchantability or fitness for a particular purpose. There is no warranty to update any of the information provided hereunder. THE CCAO AND COOK COUNTY EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED, ORAL OR WRITTEN) RELATING TO THE GIS AND/OR ASSESSOR DATA, INCLUDING BUT NOT LIMITED TO ANY AND ALL IMPLIED WARRANTIES OF QUALITY, PERFORMANCE, ACCURACY, COMPLETENESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE. Agency acknowledges and accepts the limitations of the GIS and the Assessor Data, including the fact that the GIS and Assessor Data are dynamic and are in a constant state of maintenance, correction and update.

SECTION 7. LIMITATION OF LIABILITY.

AGENCY EXPRESSLY AGREES THAT NO MEMBER, OFFICIAL, EMPLOYEE, REPRESENTATIVE OR AGENT OF THE CCAO OR COOK COUNTY, OR THEIR RESPECTIVE SUCCESSORS, HEIRS OR ASSIGNS, SHALL BE LIABLE, WHETHER INDIVIDUALLY OR PERSONALLY OR OTHERWISE, TO AGENCY OR ANY OTHER PERSON OR ENTITY, OR THEIR RESPECTIVE SUCCESSORS, HEIRS OR ASSIGNS, FOR ANY LOSS OR CLAIM, INCLUDING BUT NOT LIMITED TO ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSS OF GOODWILL DATA OR IN THE EVENT OF ANY DEFAULT OR BREACH BY THE CCAO UNDER THIS AGREEMENT OR ANY INACCURACY OF THE GIS OR ASSESSOR DATA, IN ANY WAY ARISING FROM OR RELATING TO THIS AGREEMENT OR RESULTING FROM THE USE OR INABILITY TO USE THE GIS AND/OR ANY ASSESSOR DATA.

SECTION 8. AGENCY INDEMNIFICATION.

Agency agrees to hold harmless and indemnify the CCAO and Cook County, its commissioners, officers, agents, employees, representatives and affiliates, and their respective heirs, successors and assigns, from and against, and defend, at its own expense (including reasonable attorneys', accountants' and consultants' fees), any suit, claim, action or proceeding brought by any third party against the CCAO, Cook County or any commissioner, officer, agent, employee, representative or affiliate of the CCAO or Cook County arising out of or incident to the performance or nonperformance of this Agreement by CCAO, Cook County, Agency or any other entity. To the extent that the CCAO or Cook County incurs administrative expenses including attorneys' fees during Agency's defense of any claim, Agency shall reimburse the CCAO or Cook County, as appropriate, for all such expenses. The provisions of this Section shall survive the termination of this Agreement.

SECTION 9. APPLICABLE LAW.

This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the State of Illinois, excluding any such laws that might direct the application of the laws of another jurisdiction. Venue shall be in a court of competent jurisdiction located within the County of Cook, Illinois. The CCAO and Agency each acknowledge the existence of state and other applicable law defining the duties and responsibilities of each party regarding real estate taxation and other governmental functions. No part of this Agreement has the effect of or is intended to impact any applicable legal duty of either party under existing law, especially the Illinois Property Tax Code, 35 ILCS 200/1 et seq. Both parties remain responsible under applicable law for performing all stated duties and responsibilities.

SECTION 10. CONFIDENTIALITY.

Agency acknowledges and agrees that information regarding this Agreement, and portions of the GIS and Assessor Data and other information disclosed hereunder, is confidential and shall not be disclosed, directly, indirectly or by implication, or be used by Agency in any way, whether during the term of this Agreement or any time thereafter, except solely in accordance with the official purposes set forth above. All such Assessor Data and the GIS shall be treated in confidential manner, except as otherwise expressly stated in a written document.

SECTION 11. MISCELLANEOUS.

(a) This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, in relation to the matters dealt with herein. There are no representations, warranties, collateral agreements or conditions to this Agreement, except as expressly stated in this Agreement.

(b) The section headings are for reference and information purposes only, and shall not affect in any way the meaning or interpretation of this Agreement. References to singular shall include the plural and to plural shall include the singular. References to a person shall include a corporate or government body. Words such as "including" and similar expressions shall not be read as words of limitation.

* * * * * * * *

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective authorized representatives as of the date first written above.

COOK COUNTY
ASSESSOR'S OFFICE

Michael Stone
Chief Deputy Assessor
Cook County Assessor's Office

Signature:
Robert M. Bahan
Print Name
Title: Village Manager
Agency Name: Village of Winnetka

Telephone Number:
(847) 716-3542

Exhibit A: Statement of Official Purpose

Our community's GIS system holds over 300 feature classes, many of which are supported by county GIS data. This request for county GIS data helps keep our data current, supports our processes of creating and viewing maps, selecting and querying database information, analyzing geographic data, using directly with other community data, deriving additional information, and displaying in community applications.

Exhibit B: Assessment Data

Village of Winnetka ("Agency") hereby requests access to **assessment data** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a file of assessment data, which is maintained on the Cook County Mainframe. The CCAO will make the file of assessment data available to Agency, subject to the terms and restrictions and limitations as set forth in the Agreement. A data dictionary is available upon request.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Tax Codes: _____

☑ Municipality: Village of Winnetka
with a one mile buffer

☐ Permanent Index Number range: Attach additional sheet if necessary

☐ Township: _____

Requested by
Name: Robert M. Bahan
Signature: _____
Date: February 7 2012

Exhibit C: Property Images

Village of Winnetka ("Agency") hereby requests access to **property images** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a computerized database of property images. The CCAO will make this computerized database of property images available to Agency in JPEG format, subject to the terms and restrictions and limitations as set forth in the Agreement. In addition to the property images, the CCAO will provide a file containing Permanent Index Number(s), property image capture date, and a list of Permanent Index Number(s) that have no property image assigned. A data dictionary is available upon request.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Permanent Index Number range: Attach additional sheet if necessary

_____

_____

_____

_____

_____

☐ Municipality: _____

☐ Year 1998 Photos

☐ Year 2007 Photos

Not requested

Requested by

Name: Robert M. Bahan

Signature: _____

Date: February 7 2012

Exhibit D: Digital Orthophotography (Aerial Photos)

Village of Winnetka ("Agency") hereby requests access to **digital orthophotography (aerial photos)** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a computerized database of digital orthophotography (aerial photos). The computerized database of digital orthophotography for Cook County contains 4,486 tiles. The CCAO will make the computerized database of digital orthophotography available to Agency, subject to the terms and restrictions and limitations as set forth in the Agreement. The digital orthophotgraphy will be provided in .tif or .sid format. In addition to the digital orthophotography, the CCAO will provide a shapefile containing an index of all the tiles for Cook County. Metadata is available upon request.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Municipality: _____

☐ Township: _____

☐ Year 1998 Photos

☐ Year 2003 Photos

Not requested

Requested by
Name: Robert M. Bahan
Signature: _____
Date: February 7 2012

Exhibit E: Planimetric data

Village of Winnetka ("Agency") hereby requests access to **planimetric data** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a computerized database of geographic information system (GIS). This computerized database consists of both planimetric data and cadastral data. The CCAO will make the computerized database of planimetric data available to Agency, subject to the terms and restrictions and limitations as set forth in the Agreement. The planimetric data is maintained using ESRI's ArcGIS software and is in a geodatabase format specific to ESRI's product line. Metadata is available upon request.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Permanent Index Number range: Attach additional sheet if necessary

_____

_____

_____

_____

_____

☐ Municipality: _____

☐ Township: _____

Not requested

Requested by
Name: Robert M. Bahan
Signature: _____
Date: February 7 2012

Exhibit F: Cadastral data

Village of Winnetka ("Agency") hereby requests access to **cadastral data** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a computerized database of geographic information system (GIS). This computerized database consists of both planimetric data and cadastral data. The CCAO will make the computerized database of cadastral data available to Agency, subject to the terms and restrictions and limitations as set forth in the Agency Agreement. The cadastral data is maintained using ESRI's ArcGIS software and is in a geodatabase format specific to ESRI's product line. Metadata is available upon request.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Permanent Index Number range: Attach additional sheet if necessary

_____

_____

_____

_____

_____

☐ Municipality: _____

☐ Township: _____

Not requested

Requested by
Name: Robert M. Bahan
Signature: _____
Date: February 7 2012

10

Exhibit G: Digital Terrain data

Village of Winnetka ("Agency") hereby requests access to **digital terrain data** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a computerized database of geographic information system (GIS). This computerized database includes digital terrain data. The CCAO will make the computerized database of digital terrain data available to Agency, subject to the terms and restrictions and limitations as set forth in the Agency Agreement.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Municipality: _____

☐ Township: _____

Not requested

Requested by
Name: Robert M. Bahan
Signature: _____
Date: February 7 2012

Exhibit H: Lidar data

Village of Winnetka ("Agency") hereby requests access to **lidar data** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a computerized database of geographic information system (GIS). This computerized database includes lidar data. The CCAO will make the computerized database of digital terrain data available to Agency, subject to the terms and restrictions and limitations as set forth in the Agency Agreement.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Municipality: _____

☐ Township: _____

Not requested

Requested by
Name: Robert M. Bahan
Signature: _____
Date: February 7 2012

Exhibit I: Oblique Aerial Imagery

Village of Winnetka ("Agency") hereby requests access to **oblique aerial imagery** in accordance with the Agreement, dated February 7 2012, between Agency and the Cook County Assessor's Office (the "CCAO").

The CCAO has developed a computerized database of geographic information system (GIS). This computerized database includes Oblique Aerial Imagery data. The CCAO will make the computerized database of Oblique Aerial Imagery data available to Agency, subject to the terms and restrictions and limitations as set forth in the Agency Agreement.

Agency requests assessment data based on the following geographic area (select area by completing one of the blanks below):

☐ Municipality: _____

☐ Township: _____

Not requested

Requested by
Name: Robert M. Bahan
Signature: _____
Date: February 7 2012

Agenda Report

Subject: **Stormwater Update – February 7, 2012**

Prepared By: Steven M. Saunders, Director of Public Works/Village Engineer

Date: February 2, 2012

Sanitary Sewer Evaluation Request For Proposals (RFP). Responses to the RFP, which the Council reviewed and authorized in December, were due January 20. Four firms responded, each firm having a well-documented history of successfully completing similar projects for a wide spectrum of municipalities and sanitary districts. Staff is evaluating each of the firms and will provide a detailed review and recommendation at the February 21 meeting.

Coastal Engineering. A key component of the Willow Road Stormwater Tunnel is the design of the outlet structure to Lake Michigan. This structure must be designed with multiple factors in mind. It must reduce outlet velocity to safe levels; it must control erosion and prevent pollution; it must not contribute to beach degradation; it must withstand wave and ice action; it must not interfere with navigation or other uses of the Lake; and it must be aesthetically acceptable. Given that this is a significant challenge, in the unique setting of a coastal environment, staff is seeking a sub-consultant from the specialized discipline of coastal engineering to provide conceptual designs and cost estimates for this structure. Two firms have submitted fee proposals on the project, and a third is being sought. While I anticipate that the fee for this work will be less than the $25,000 threshold requiring Council approval, the importance of the project indicates that the Council should have an opportunity to approve the contract, which will be presented at the February 21 meeting.

UIC Project. The Village is working in cooperation with the MWRDGC on a demonstration project with students from UIC to identify methods of infiltrating or storing for reuse 2,000 gallons of rain water per property from roof drainage and sump pumps. There are 2 groups (4 students per group) working on the project. One group has been assigned to the design for a typical home in Winnetka, as well as expanding the project to encompass a neighborhood solution. The other group is working with a different municipality with different housing characteristics. The timeline calls for the project to be completed by April 17, with an abstract due February 17.

Recommendation:
Informational Report.

AGENDA REPORT

Subject: **Resolution R-4-2012 -** Approving an Intergovernmental Agreement to Provide Firefighting and Other Emergency Services to the Village of Kenilworth

Prepared by: Alan J. Berkowsky, Fire Chief

Date: January 30, 2012

Summary:

The Village of Winnetka has provided fire protection for the Village of Kenilworth dating back to the 1930's and paramedic services since the 1970's. In return, Winnetka is reimbursed by Kenilworth for these services. These funds help to offset the cost of the Winnetka Fire Department so the arrangement is mutually beneficial.

Background:

The current five-year Fire Services Agreement with the Village of Kenilworth expires on March 31, 2012. In the fall of 2011, staff from both communities met to discuss a successor contract. As a result of these meetings, a new Fire Service Contract was created. The new contract was slightly modified to reflect the current trend with mutual-aid and automatic-aid as well as to better reflect the services now provided to the Village of Kenilworth including hydrant testing, public education and participation in public events and fire prevention activities.

In order to determine the fee for services, a formula has been used that takes into account several factors including call volume, population, equalized assessed valuation, the Winnetka Fire Department's annual budget and capital expenses. Over the last five years, the average annual cost for fire and emergency medical services to the Village of Kenilworth has been $471,504 with an average annual increase of 1.55%. Please note that capital expenses are amortized over the life expectancy of the equipment purchased. This formula is also used to determine the fees charged to the unincorporated areas of Cook County which receive the same fire services by the Winnetka Fire Department.

The Village of Kenilworth approved this contract at their January 17, 2012, Council Meeting.

Staff recommends approval of the attached five-year (2012 - 2017) Fire Services Contract with the Village of Kenilworth. Fire Department staff will be present at the Council meeting to answer any questions that the Council may have.

Recommendation

Consider adopting Resolution R-4-2012, authorizing the execution of a new fire services agreement with the Village of Kenilworth, substantially in the form attached as Exhibit A.

A RESOLUTION
APPROVING AN INTERGOVERNMENTAL AGREEMENT
TO PROVIDE FIREFIGHTING AND OTHER EMERGENCY SERVICES
TO THE VILLAGE OF KENILWORTH

WHEREAS, the Village of Winnetka ("Village") is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970 and, except as limited by Section 6 of Article VII of the Constitution of the State of Illinois of 1970, is authorized to 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; and

WHEREAS, Article VII, Section 10 of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq*., encourage and authorize cooperation between and among governmental entities through intergovernmental agreements; and

WHEREAS, the Village of Kenilworth is located directly south of the Village of Winnetka, and adjoins portions of the Village of Winnetka's southern border; and

WHEREAS, in the 1930's, the Village of Winnetka began providing fire suppression and fire-related services to the Village of Kenilworth and its residents; and

WHEREAS, in the 1970's, the Village of Winnetka also began emergency paramedical and rescue services within the Village of Kenilworth; and

WHEREAS, the Village of Kenilworth desires to continue to obtain such services from the Village of Winnetka, and the two municipalities have agreed to the terms and conditions for a new agreement for such services.

NOW, THEREFORE, be it resolved by the Council of the Village of Winnetka as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: The agreement between the Village of Winnetka and the Village of Kenilworth, titled "Fire Services Agreement," is hereby approved, substantially in the form set forth in the attached Exhibit A to this Resolution, which incorporated in this Resolution as if fully set forth.

SECTION3: The Village President is authorized to sign, and the Village Clerk is authorized to sign and seal, the above-described Fire Services Agreement, substantially in the form attached.

SECTION 4: This Resolution is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 5: This Resolution shall take effect immediately upon its adoption.

ADOPTED this 7th day of February, 2012, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

FIRE SERVICES AGREEMENT

This Agreement is entered into this 17th day of January, 2012, by and between the Village of Winnetka, a municipal corporation, and the Village of Kenilworth, a municipal corporation, both in the County of Cook and State of Illinois.

WHEREAS the Village of Kenilworth adjoins the Village of Winnetka on the south and the Village of Kenilworth desires to continue to obtain from the Village of Winnetka the services of the Winnetka Fire Department for fire suppression and fire related services, emergency paramedical and rescue services to be rendered by the Winnetka Fire Department for the Village of Kenilworth, upon the terms and conditions hereinafter set forth in this Agreement; and

WHEREAS the Village of Winnetka is willing to furnish such services to the Village of Kenilworth under said terms and conditions in order that both villages may mutually benefit by the avoidance of the expense of maintaining duplicate fire department facilities;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES and in consideration of the sum of $1.00 in hand paid by each of the parties hereto, which is mutually acknowledged, and in consideration of the mutual terms and agreements hereinafter set forth, it is agreed between the parties hereto, as follows:

The terms "Kenilworth" and "Winnetka" wherever used as such in this Agreement shall mean the areas within the respective corporate limits of the Village of Kenilworth and the Village of Winnetka.

1. The Village of Winnetka hereby agrees to maintain a fire department equipped with at least two 1,500 gallons-per-minute pumper trucks and, to provide normally for the operation of said equipment with sufficient personnel strength to render effective service within both Winnetka and Kenilworth based on the reasonably anticipated need for services of the Village of Winnetka Fire Department.

2. The Village of Winnetka hereby agrees to have the Winnetka Fire Department respond to all fire calls that may be received from any person reporting the existence of a fire involving property located in Kenilworth with a fully equipped pumper truck manned by a sufficient number of employees to render effective service; provided, however, that the Village of Winnetka shall not be required to render such service under the following conditions:

   a) When the Winnetka Fire Department or any member, apparatus or equipment thereof is responding to another fire or emergency paramedical or rescue service call at the time that any call is received reporting a fire involving property located in Kenilworth; or

   b) When, before the Winnetka Fire Department has left the fire station, coincident calls are received requesting the services of the Winnetka Fire Department in both Winnetka and

c) When the services of the Winnetka Fire Department cannot be furnished because of the disablement of either the equipment or the members of the Fire Department, or for any other unforeseen cause.

3. Whenever any of the conditions described in paragraphs 2(a), 2(b), or 2(c) hereinabove set forth shall exist upon the receipt of a call at the headquarters of the Winnetka Fire Department for the services of said Department in Kenilworth, then such call shall be transmitted by a member of the Winnetka Fire Department either to the headquarters of the Fire Department of a neighboring community or to the dispatch center of Division 3 of the Mutual Aid Box Alarm System, with a request to respond to the call for fire suppression services received from Kenilworth.

4. Whenever the conditions described in paragraphs 2(a) and 2(b) hereinabove set forth shall exist and, for any reason, no other firefighting force requested under paragraph 3 above is able to furnish the fire suppression service requested by the Winnetka Fire Department, then the Winnetka Fire Department will respond to such call with such equipment and such members of its department as in the judgment of the officer then in command of the Department may be released for such service without undue jeopardy to property or life in Winnetka.

5. Whenever the members of the Winnetka Fire Department shall be unable to furnish the services requested by a call for Kenilworth because of the existence of the conditions described under paragraphs 2(a), 2(b), or 2(c) hereinabove set forth or whenever the services of the Winnetka Fire Department are deemed to be inadequate for servicing any fire in Kenilworth in the opinion of the officer in command, the Village of Winnetka will activate its auto-aid and/or mutual-aid agreements with neighboring fire departments. In either case, the Village of Winnetka shall be responsible for any fees associated with the request for assistance from other fire departments as stipulated or understood in the existing auto-aid/mutual-aid agreements.

6. In addition to the fire suppression services herein provided to be rendered by the Village of Winnetka to the Village of Kenilworth, the Village of Winnetka hereby agrees to furnish emergency paramedical and rescue services and equipment in response to all calls received from any person for any case in Kenilworth where such service is desired, and also to any such emergency call received by the Winnetka Fire Department from the Kenilworth Police Department; provided, however, with the exception of ambulance transportation fees charged to the patient, that response by the Winnetka Fire Department to any such emergency call and the payment therefor shall be subject to the same conditions herein set forth concerning calls for fire suppression service by the Village of Winnetka. Any ambulance transportation fees collected by the Village of Winnetka for calls in the Village of Kenilworth will be remitted to the Village of Kenilworth on a monthly basis.

7. Each party to this Agreement waives all claims against the other party or parties for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of this Agreement.

8. The Village of Kenilworth hereby agrees to pay to the Village of Winnetka for all of the services in this Agreement provided to be furnished by the Fire Department of the Village of Winnetka a sum to be determined annually as follows: each of the areas presently being serviced by the Fire Department of the Village of Winnetka, namely the Village of Winnetka, the Village of Kenilworth, and the unincorporated area south of Winnetka, shall pay its pro rata share of the cost of fire suppression and emergency paramedical and rescue services based upon the combined ratio of each area's (a) most current equalized assessed valuation, (b) latest decennial or special census population, and (c) number of all fire suppression and emergency paramedical and rescue services calls, including false alarms, from the preceding twelve-month period, with each of these three factors receiving equal weight in the formula. The Village of Kenilworth share of the cost of fire suppression and emergency paramedical and rescue services shall be determined by March 1st, based upon the Fire Department budget as approved by the Village of Winnetka for the ensuing year beginning April 1. The share allocation figures may subsequently be adjusted based upon final audit figures.

9. It is agreed by both parties that all capital expenditures included in the Fire Department budget as approved by the Village of Winnetka which exceed $25,000 in budgeted cost will not be included in the current year budget for cost allocation but, instead, will be amortized over the life expectancy of said capital item and the annual amortized amount will be added to the current year budget cost allocation to determine the total amount due.

10. The parties hereto further agree that this Agreement shall become effective on April 1, 2012 and shall continue for a period of five (5) years to and including March 31, 2017, to be terminable without cause with one year's notice by either party. The Village of Kenilworth agrees to divide the total annual payment into two payments of equal or nearly equal amounts, to be paid annually in October and February of the contract year. The Village of Winnetka shall have the right to terminate this Agreement upon the failure of the Village of Kenilworth to make any payments provided for hereunder within sixty (60) days after written notice of the overdue amount thereof has been transmitted by the Village of Winnetka to the Village of Kenilworth.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be signed by the President of the Village of Winnetka and the President of the Village of Kenilworth, attested by the Village Clerk of each of said Villages, and their respective corporate seals hereunto affixed on the day and year first above written.

VILLAGE OF WINNETKA

_____

BY: Jessica Tucker, Village President

ATTEST:

_____

Robert M. Bahan, Village Clerk

VILLAGE OF KENILWORTH

_____

BY: Fred G. Steingraber, Village President

ATTEST:

_____

Scott Lien, Village Clerk

AGENDA REPORT

Subject: **Resolution R-5-2012 –** Supporting the NWMC Legislative Program

Prepared by: Jessica Tucker, Village President
Robert Bahan, Village Manager

Date: February 1, 2012

On Saturday, January 28th the Northwest Municipal Conference (NWMC) introduced its legislative platform to federal and state elected officials. The 2012 NWMC Legislative Program contains recommendations and solutions for the challenges faced by local governments. A primary focus of the Legislative Program is to emphasize the need to ensure the fiscal stability of communities by preventing the loss of local government revenues such as the Local Government Distributive Fund. State officials are urged to balance their budget without diverting critical local government revenue sources.

The Legislative Program also underscores a number of ways the state could help reduce escalating local government labor costs, including: i) public safety pension reform; ii) preventing abuse in the award of lifetime healthcare benefits to injured workers; and iii) changing the interest arbitration process, which often ignores a municipality's fiscal conditions while bestowing generous arbitration awards.

Resolution R-5-2012 voices Winnetka's support of the NWMC 2012 Legislative Program.

Recommendation:

1) Consider adopting Resolution R-5-2012.

A RESOLUTION
SUPPORTING THE NORTHWEST MUNICIPAL CONFERENCE
2012 LEGISLATIVE PROGRAM

WHEREAS, the Village of Winnetka is a member of the Northwest Municipal Conference; and

WHEREAS, the Northwest Municipal Conference works with its members to develop its annual Legislative Program that serves as a comprehensive platform on legislative issues in order to protect and benefit the interests of its member municipalities, residents, and businesses in our communities and the region; and

WHEREAS, the Northwest Municipal Conference's 2012 Legislative Program focuses on issues vital to the Village of Winnetka, including protecting local government revenues, online sales tax collection, and sales tax sourcing rules, as well as addressing labor related cost drivers such as pension reform, preventing abuse of the Public Safety Employees Benefit Act and balancing the interest arbitration process; and

WHEREAS, the Northwest Municipal Conference will actively pursue these legislative priorities to the benefit of the Village of Winnetka and all members of the Northwest Municipal Conference.

NOW, THEREFORE, be it resolved by the Council of the Village of Winnetka as follows:

SECTION 1: That the Village of Winnetka hereby expresses support for the Northwest Municipal Conference's 2012 Legislative Program.

SECTION 2: That the Village of Winnetka will actively support the 2012 Legislative Program of the Northwest Municipal Conference both locally and in our federal and state capitals.

SECTION 3: That a copy of this Resolution be forwarded to the Northwest Municipal Conference, to all state and federal legislators representing the Village of Winnetka, to the Office of the Governor, and to department heads in the Village of Winnetka.

SECTION 4: This Resolution shall take effect immediately upon its adoption.

ADOPTED this 7th day of February, 2012, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

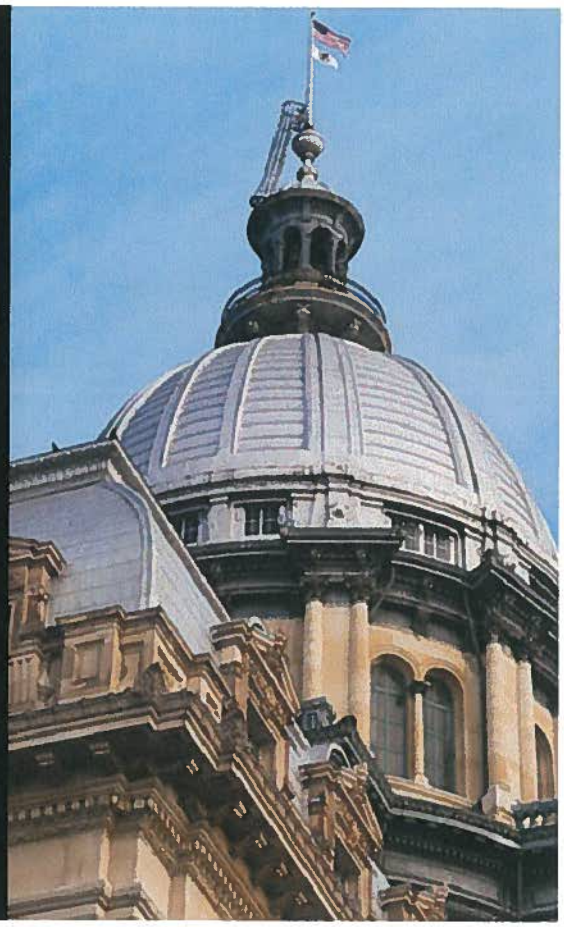
Signed:

_____
Village President

Countersigned:

_____
Village Clerk

2012



Legislative Program

Northwest Municipal Conference

2012 NWMC Legislative Committee

William McLeod, Co-Chair
Mayor, Village of Hoffman Estates

Elizabeth Tisdahl, Co-Chair
Mayor, City of Evanston

Joe Farwell
Trustee, Village of Arlington Heights

Karen Darch
President, Village of Barrington

Jeffrey Braiman
President, Village of Buffalo Grove

Matt Bogusz
Alderman, City of Des Plaines

Nancy Rotering
Mayor, City of Highland Park

Jim Norris
Manager, Village of Hoffman Estates

Robert Kiely
Manager, City of Lake Forest

Gerald Turry
Mayor, Village of Lincolnwood

Dave Strahl
Assistant Manager, Village of Mount Prospect

Louella Preston
Trustee, Village of Niles

Sandy Frum
President, Village of Northbrook

Jill Brickman
Supervisor, Northfield Township

Fred Gougler
President, Village of Northfield

Al Larson
President, Village of Schaumburg

George Van Dusen
Mayor, Village of Skokie

Jessica Tucker
President, Village of Winnetka

Dear Friend of the Northwest Municipal Conference:

I am honored to present you with the Northwest Municipal Conference's 2012 Legislative Program.

The members of the Northwest Municipal Conference stand as one in order to protect and strengthen our individual communities. From legislative initiatives designed to reduce the cost that taxpayers must pay in support of local government to staunchly defending local revenues from unwarranted diversions, we recognize the importance of taking an active role in the legislative process.

Over the past several years, we have engaged in a practical, data driven approach toward developing legislative solutions. This approach has assisted legislators to better understand the impact of various bills on local taxpayers and make informed decisions that produce positive outcomes.

My pledge as NWMC President is that we will continue our progressive approach for the 2012 legislative session. With the ongoing fiscal challenges faced by local governments, we look forward to working with you as partners in the legislative process to produce results that serve to benefit our mutual constituents.

Very truly yours,

Christopher S. Canning
President, Northwest Municipal Conference and
President, Village of Wilmette

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Introduction:
Local Government Still Face Fiscal Challenges

Despite optimism that 2011 would bring a much needed upswing to the economy, a lack of dramatic economic improvement left local governments facing continuously challenging circumstances that impact the ability to provide the high level of public services that our constituents expect and demand. Local budgets have been strained to the breaking point by shrinking revenues as a result of the recession as well as ongoing fiscal mandates. Although some signs indicate the recession has ended, revenue recovery still appears to be distant. Local leaders must continue to manage prolonged periods of reduced services, job reductions, salary freezes, deferred infrastructure maintenance and other widely utilized cost cutting strategies.

Opportunities to improve local revenues have not materialized. When the state increased the personal and corporate income tax rates early in 2011, state leaders captured all of the increase for the state and did not adhere to the 42 year agreement with local governments to distribute their appropriate share.

At the same time, state leaders eyed local government revenues to further fill the state's budget deficit. Proposals to reduce the Local Government Distributive Fund (a fund that has already been greatly reduced by falling income tax receipts) by $300 million forced local government leaders to vigorously defend this vital source of revenue. When the Governor vetoed funding from regional school superintendents, his proposal to pay the superintendents from Personal Property Replacement Tax revenues was adopted over the strong objections of local governments.

Introduction:
Local Government Still Face Fiscal Challenges

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Meanwhile, local government proposals to address several major cost drivers that continuously increase at a time when revenues are declining were unable to garner enough legislative support to overcome the opposition.

In short, the optimism that 2011 would be a year where state and local leaders worked cooperatively to ensure that our mutual constituents are provided the local services they rely upon was lost.

We state the above to reinforce the context of the Northwest Municipal Conference's 2012 Legislative Program. The new year provides all of us another opportunity to address the problems and concerns that have been impacting local governments' ability to provide for our constituents. We understand that the primary focus in Springfield was rightly on attempting to get the state's fiscal house in order.

However, we cannot lose sight of the fact that strong local communities are the bedrock upon which our state rests. Delaying necessary fiscal fixes vital to ensure local government stability is an unacceptable outcome. We need actions so that local leaders can begin to rebuild the long term fiscal stability of their communities.

We renew our optimism as we call on our state leaders to work cooperatively to ensure strong communities for our mutual constituents. Here are our legislative recommendations for 2012.

Ensure the Fiscal Stability of Illinois Communities

Protect Local Government Revenues

Revenues are the lifeblood of stable communities, enabling local governments to provide for the needs of residents and businesses. Communities that are able to support these needs are attractive places for economic development. Local government revenues must not be viewed as an alternative source of revenue for the state but as the long standing commitment to ensuring healthy and strong communities upon which to base the state's economy. We offer four recommendations vital to protecting local government revenues.

1. **Prevent any diversions of the Local Government Distributive Fund (LGDF)**
   The LGDF, which was instituted in 1969 in exchange for municipalities not imposing their own income tax, is a significant source of operating revenue. The threatened loss of this vital revenue would lead to additional cutbacks in critical services, including public safety.

We recommend that the LGDF remain intact and local governments share in any natural increases in income tax revenues. We further recommend that any reductions in the corporate income tax require an appropriate adjustment to the LGDF formula to keep local governments whole.

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2. **Ensure prompt payment of LGDF to local governments**
   Although the state income tax increase slightly improved the timeliness of LDGF payments to local governments, the payment cycle still runs several months in arrears. This delay places a strain on local government cash flow.

We recommend legislation to require the direct deposit of LGDF to local governments.

3. **Restore the diversion of Personal Property Replacement Tax (PPRT) funds**
   Although the amount of PPRT funds diverted to pay for a state obligation (regional school superintendents) was approximately 1% of the total distributions, this practice sets a disturbing precedence that must not only be avoided but reversed. Unless action is taken to completely restore the diverted funds, this move will long be remembered as the beginning of "death by a thousand cuts".

We recommend restoring the previous funds in the FY 2013 budget and protecting this fund from future diversions.

4. **Promote ability to reduce the cost of local government while avoiding increased taxpayer burdens**

Ensure the Fiscal Stability of Illinois Communities

(continued)

Local government leaders are actively rising to the fiscal challenges we face by exploring innovative ways to reduce the cost of local government. Several groups are currently studying various methods to share local services which could increase service delivery efficiencies and create economies of scale that would greatly benefit taxpayers. Some of these efforts may require legislative actions to facilitate these innovations, providing our legislative leaders with the opportunity to not only protect local government revenues but also reduce expenses.

At the same time we pursue innovation, we strongly oppose any attempts to irresponsibly place additional burdens on local taxpayers through unfunded mandates. Oftentimes, the state's desire to address a situation or provide a benefit comes at the direct expense of fiscally strapped local governments and their taxpayers. These stealth tax increases significantly raise the costs of operating local governments. Unfunded mandates combined with the state diverting revenues from local governments are a recipe for disaster that must be avoided at all costs.

We recommend that legislators work with local governments to facilitate cost saving innovations while avoiding the temptation to pass unfunded mandates on to the backs of local taxpayers.

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Exercise Caution While Addressing Sales Tax Sourcing Issues

Municipal leaders make decisions with long term implications to ensure sufficient revenues for their communities. One major decision is to dedicate land use within the municipality for intensive retail development in order to capture sales tax revenues. Planning for economic development of this nature requires each community's leaders to achieve a balance of the infrastructure and public services investments to support this growth, the revenue streams anticipated from the expected growth and the requirements to protect nearby residents impacted by the resulting retail center environment.

In short, municipalities that have attracted significant levels of sales tax generating development have done so after fully considering the tradeoffs needed to ensure it is the proper fit for that community. Lower local property and other taxes for residents is often the benefit that mitigates the external impacts.

Two potential legislative actions in 2012 could produce unintended consequences for local government revenues. Both have the potential to require changes in the sales tax sourcing rules that determine where the revenues generated from a taxable sale are distributed. Even a seemingly minor change in the sourcing statutes could have a major impact upon the fiscal position of those municipalities that have made the long term decision to pursue retail development.

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In Congress, the Marketplace Fairness Act has been introduced to allow states to enforce and collect local sales and use taxes on transactions conducted online. Currently, many online retailers utilize the "nexus" argument to avoid collecting and remitting the same taxes that would be collected on a transaction conducted in a "bricks and mortar" location. Unlike previous versions of legislation to authorize the collection of sales taxes from online transactions, the Marketplace Fairness Act (as introduced) would not require changes to state sales tax sourcing laws.

We support legislation to authorize the collection of sales taxes on all online transactions but our support is conditional as to whether the legislation will require any changes to sourcing rules.

In Illinois, several municipalities outside the Regional Transportation Authority's (RTA) service area have reached sales tax rebate agreements with companies to funnel the paperwork from their transactions through small offices to avoid collection of higher sales tax rates within the Chicago region. This arrangement allows these companies to charge a lower tax rate, giving them an unfair competitive advantage, and diverts sales taxes revenues away from the rightful local government where the actual transaction transpires.

We support eliminating these sales tax diversions to ensure that revenues are distributed to the rightful local governments but express opposition to any legislation that undermines current sales tax sourcing rules to divert revenues away from the physical location of the transaction.

Place Municipalities in Primary Position on Liens During Foreclosure Sales

One of the biggest impacts of the recession has been the extraordinary volume of residential buildings that have foreclosed upon by the lenders. During far too many cases, these properties become abandoned leaving no one to maintain them during the foreclosure process. Left untended, these abandoned houses quickly deteriorate and become a blight upon the surrounding neighborhood, depressing nearby home values.

In order to avoid this result, municipalities step up to maintain these properties when the lender or former owners fail to do so. Maintaining these abandoned properties requires the expenditure of municipal funds to secure the structure, mow grass, remove dangerous trees and turn off water or provide heat during cold weather to avoid damages from bursting pipes.

These municipal costs are not always reimbursed when the foreclosure sale is concluded. Currently, municipal liens get in line with other creditors, leaving taxpayers at risk of not recouping the expenditures if sufficient proceeds are not generated from the sale.

We recommend legislation to place municipal liens in a primary position during foreclosure sales.

Complete Comprehensive Public Safety Pension Reforms

Public safety pension reforms adopted in 2010 were a significant first step toward getting this exponentially growing cost driver under control. Extending the amortization deadline for funding the pension funds and adjusting the benefits for newly hired employees has mitigated some of the upward pressure these pensions placed upon local budgets.

However, the work of public safety pension reform is not complete. The Pension Fairness for Illinois Communities Coalition, which spearheads this effort, presented a five part platform for comprehensively addressing the problem. It is time to revisit the three unresolved planks in that platform to complete this vital work. In addition, the 2010 reforms changed the actuarial methodology in a manner that may produce unintended consequences.

1. **Require a more equitable employee contribution toward the cost of the pension**
   Currently, public safety employees contribute approximately one-third toward the cost of their pensions while taxpayers contribute the remaining two-thirds. For the long term stability of any pension fund, the ratio of employer to employee contribution to the normal cost of the pension should be one-to-one. On top of the two-thirds contribution, taxpayers are also responsible for funding any unfunded liabilities, including those resulting from underperforming investment returns managed by the individual employee-controlled

pension boards. Legislation in the form of Senate Bill 512 is under consideration for employees in state pension funds. Senate Bill 512 provides employees three options: 1) require a higher employee contribution toward their current pension, 2) maintain their current contribution level with the pension benefits going forward matching those of newly hired employees, or 3) allow the employee to opt into a defined contribution plan.

We recommend expanding Senate Bill 512 to require similar changes for public safety pensions.

2. **Consolidate existing individual police and fire pension funds into an IMRF-type system**
   With over 650 individual public safety pension funds, the current system fails to take advantage of potential economies of scale to produce higher investment returns with lower operating costs. Currently, the Commission on Government Forecasting and Accountability (COGFA) is charged with producing recommendations as to how to best consolidate these funds into a better system. There is a perfect model for multiple employer public pension systems - the Illinois Municipal Retirement Fund (IMRF).

We recommend consolidating the individual public safety pension funds into a single IMRF-type system.

Address Labor Related Cost Drivers

(continued)

3. **Require a supermajority to approve any future pension benefit enhancements**
   Setting a higher threshold for adopting future pension benefit enhancements would make it more difficult to undo the reforms proposed and enacted. Speaker Madigan has introduced HJRCA 5, which requires a three-fifths majority for pension benefit enhancements.

We recommend the passage of HJRCA 5.

4. **Restore the Entry Age Normal Funding Method**
   A change made to public safety pensions in Public Act 96-1495 changed the actuarial method for calculating required pension contributions from the previous Entry Age Normal (EAN) to a Projected Unit Credit (PUC) method. Although this change brings public safety pensions in line with the method used for state pension funds, PUC allows for lower initial contributions than EAN that will result in much higher pension contributions as governments get closer to the 2041 amortization deadline.

We recommend returning public safety pensions to the Entry Age Normal method.

Prevent Abuse Through PSEBA Reforms

The Public Safety Employee Benefits Act (PSEBA) provides lifetime health insurance benefits to police and fire personnel (and their families) who suffer a catastrophic injury on the job. Providing PSEBA insurance benefits to those who are permanently injured while engaged in actively protecting the public and are no longer capable of supporting themselves and their family is not the issue we seek to address.

The federal law upon which PSEBA is based defines catastrophic injury as "consequences of an injury that permanently prevents an individual from performing any gainful work". The Illinois version of PSEBA omits this definition. Illinois courts have equated the award of a duty disability pension to a catastrophic injury, leaving determination of lifetime healthcare benefits to the discretion of local pension boards (governed by a majority consisting of current and former employees).

There are numerous existing cases where the injury suffered, while significant enough to prevent the employee from returning to active duty as a firefighter or police officer, does not preclude the employee from obtaining other gainful employment. In fact, the very nature of PSEBA provides a perverse incentive, especially in cases where the employee is closer to retirement and facing the reality of paying for future healthcare insurance, to exploit a relatively minor injury into a condition that prevents the return to active duty.

Address Labor Related Cost Drivers

(continued)

The cost of allowing these former employees who are otherwise gainfully employed to collect lifetime healthcare benefits at taxpayer expense is staggering. A single case often leaves local taxpayers liable for more than a million dollars in future healthcare insurance costs even while the former employee begins a second career.

We recommend amending PSEBA to bring the term catastrophic injury in line with the federal definition. We also recommend that current PSEBA beneficiaries who are eligible to enroll in other healthcare coverage to both report this eligibility and enroll in the alternative coverage.

Balance the Interest Arbitration Process

Police and fire employees' salaries and benefits have been escalating at rates that far exceed those of other municipal employees. While other employees have agreed to salary freezes and other measures to control costs during the current economic downturn, the interest arbitration process has made it extremely difficult to negotiate reasonable contracts for public safety employees that reflect the community's ability to afford. It becomes very challenging to manage municipal staffing when one class of employees is sacrificing to balance the budget while those in public safety enjoy multi-year increases in salary and benefits.

Address Labor Related Cost Drivers

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The current system is out of balance. Arbitrators determining police and fire contracts routinely review both the union and municipal offers and award salary and benefits based upon either one or the other with little attempt to reach a middle ground. Too often this ends up being the union offer with virtually no regard as to the ability of the taxpayers to afford the final total compensation package. While the interest arbitration system provides a means to work out labor-management differences while avoiding public safety workers going on strike, the reality is that the rules are skewed toward the labor side of the equation.

Compounding this imbalance are efforts to include management decisions such as determining manning levels in the arbitration process. Without some corrective steps, the interest arbitration process is eroding the ability for municipal leaders to effectively manage, and consequently afford, their public safety operations.

We recommend requiring arbitrators to take into account economic factors such as the budgetary constraints facing local governments when determining the total compensation packages awarded through the interest arbitration process. We further recommend that manning levels and other management decisions be excluded from the process.

AGENDA REPORT

SUBJECT: **MC-1-2012 – An Ordinance Amending the Winnetka Village Code as It Pertains to Coach Houses**

PREPARED BY: Katherine S. Janega, Village Attorney

REFERENCE: April 12, 2011 Study Session
September 13, 2011 Study Session

DATE: February 2, 2012

Procedural Background

On September 13, 2011, the Village Council discussed possible amendments to the Village Code to ease restrictions on coach houses, which the Zoning Ordinance currently treats as nonconforming uses. As such, coach houses are allowed to be occupied under limited circumstances, and only if they are registered with the Village. At the same meeting, staff provided the Council with additional information on coach houses, including the number and location of coach houses, and the number that are registered and occupied.

The coach house issue was initially raised at the Council's April 12, 2011, Study Session, when the Council considered the Plan Commission's demographic and housing study titled *Study of Housing Conditions and Needs*, and its companion report and recommendations, titled *Reinvigorating a Tradition of Varied, Moderately Priced and Affordable Housing: A Report to the Village Council*.

At both the April and September Study Sessions, Plan Commission representatives explained that relaxing restrictions on coach houses would enhance individual property rights and contribute to the diversity of the Village's housing stock, and members of the Council concurred. It being the sense of the Council that it would consider coach houses as an independent topic, the Council directed staff to proceed with drafting suggested amendments to relax the restrictions on coach houses.

The attached Ordinance MC-1-2012 would amend various provisions of the Zoning Ordinance and Building Code to allow coach houses as permitted accessory uses and to replace the annual registration requirement with a simple, one-time certificate of occupancy. The draft amendments are discussed in detail in the following section of this Agenda Report. However, several points should be noted at the outset:

1) Under the draft amendments, coach houses would no longer be treated like two-family and multi-family dwellings.
2) Because coach houses are in single-family residential zoning districts, they will not be subject to the Commercial Property Maintenance Code.

3) The draft amendments pertain only to the building structure and basic requirements for habitability. They do not define or regulate the landlord-tenant relationship, and do not impose any limitations or requirements as to tenancy or rent. Thus, it is left to the individual property owners to determine whether they want to rent out a coach house and, if so, to whom they wish to rent the unit, and under what terms.

4) As was the case in September, Village Staff has let the owners of properties with coach houses know that the topic has been scheduled for Council discussion. Should the Council set the draft amendments for a hearing, formal notice of the hearing would be issued to affected property owners and would be published for the general public, as well.

History and Status of Coach Houses in Winnetka

Coach houses have been built in numerous locations throughout the Village, typically predating the 1922 enactment of the Zoning Ordinance, which would later restrict or prohibit their use. Community Development staff has identified 22 existing occupied coach houses, and approximately 38 potential former, now-vacant units. The locations of these two categories of coach houses are shown on the color-coded map appended at the end of this agenda report.

As noted above, the owners of the coach house properties were notified before the September study session that the Council would be considering easing coach house restrictions at that meeting. While the minutes of that meeting indicate that there were about seven members of the public at the study session, no one who owns or resides in a coach house addressed the Council on the topic when public comment was invited.

In addition to identifying the locations of existing and likely coach houses at the September study session, Village staff provided the following information, in response to questions received from Council members:

- There have been no requests in the last two years from coach house owners asking to lease units that had been vacant for the preceding six months.
- Village staff cannot identify the rental rates for occupied coach house units, as the Village does not request, require or receive this information.
- Community Development has neither received any requests or permit applications for coach house renovations in the last two years, nor have any permits been issued for that purpose.

The last recorded coach house improvements were made pursuant to ordinance M-13-2006, which granted zoning variations for extensive coach house improvements at 445 Sheridan Road, where portions of the first floor were converted from a mechanical room to a pool house with a full kitchen, sitting area, laundry and elevator to the second floor, and the second floor living quarters were reconfigured.

Current Zoning Provisions Governing Coach Houses

All zoning regulations consist of two types of regulations. Bulk regulations address the "what" and "where" aspects of land use, *i.e.*, the kind of structure, the size of the structure and where it is situated on the land. Use regulations address how both the property as a whole and the structures it contains are used. Because coach houses are always in a building that is both separate from and subordinate to the building that contains the principal use (*i.e.* a single family residence), coach houses are accessory buildings that contain one or more accessory uses.

Currently, coach house residential uses are permitted as accessory uses only in the five single-family zoning districts, and only within certain limitations. The Zoning Ordinance chapters governing the single-family residential zoning districts all contain the identical provision, which does not refer to coach house units by their common name, but instead provides a functional definition. The quoted language that follows is taken from the R-5 Single-Family Residential District regulations. There is a corresponding, identically phrased provision in the use provisions of each of the other four single-family districts. (The five single-family residential zoning districts are designated R-5, R-4, R-3, R-2 and R-1, reflecting the gradations in minimum lot size, with the smallest minimum lot size in the R-5 districts, and the largest lots being in the R-1 districts.)

> **17.12.020 Permitted Uses.**
>
> Unless otherwise provided in this title, no building or premises shall be used and no building shall be erected or altered within the R-5 Single-Family Residential District, except for the following uses:
>
> * * *
>
> B. Accessory Buildings and Uses. In addition to other considerations and requirements set forth in this title, buildings and uses accessory to a single-family detached dwelling shall be subject to the following conditions and requirements:
>
> * * *
>
> 10. No accessory building shall be erected or altered to contain living quarters, except an existing accessory building containing living quarters for a full-time household employee or employees of the family occupying the principal building. Use of an accessory building or a building originally erected as an accessory building, existing and containing occupied living quarters but not occupied by a full-time household employee of the family occupying the principal building shall be considered and treated as a legal nonconformity under Chapter 17.64. Uses permitted in this paragraph may include occupancy by additional persons entitled to occupy a single-family dwelling if the living quarters contain not less than three hundred fifty (350) square feet of interior floor area for the first two persons residing in such single-family dwelling and one hundred fifty (150) square feet of additional interior floor area for each person residing in such single-family dwelling; provided, however, that no occupancy otherwise permitted under this paragraph shall be allowed or continued unless the owner of the principal

building shall comply with the registration requirements of Section 17.72.030; provided further that, the number of persons entitled to occupy such living quarters shall not exceed seven;

The two Zoning Ordinance chapters cited in Paragraph 10, Chapters 17.64 and 17.72, define the conditions and limitations for using an "existing accessory building containing living quarters."

Chapter 17.64, titled "Nonconformities," places limits on all nonconforming uses and structures in the Village, and identifies thresholds under which any nonconforming use may be continued, and under which conditions it must be discontinued. While "accessory buildings containing living quarters" are not mentioned specifically in Chapter 17.64, as declared nonconformities, they are subject to the same limitations that apply to all other nonconforming buildings and uses, *i.e.*, such a unit can no longer be lawfully occupied if it is vacant either for 6 consecutive months or for any 18 months in any three-year period.

In Chapter 17.72, titled "Administration and Enforcement," Section 17.72.030 establishes annual registration requirements for "accessory building[s] containing living quarters" and other legally nonconforming dwelling units in the single-family zoning districts, so the Village can verify the continued legal status of the occupancy of such units. These same annual registration requirements apply to two-family and multi-family buildings, and provide publicly available information as to the ownership and management of such buildings.

Ordinance MC-1-2012 – Draft Amendments

Ordinance MC-1-2012 would amend both the Zoning Ordinance and the Building Code. The zoning amendments would return coach house residences to their former status as permitted uses, unlink them from two-family and multi-family dwellings, and shift from an annual registration process to a one-time, cost-free certificate of occupancy for returning existing coach house structures to a residential use. Corresponding amendments are made to the Building Code's occupancy certificate provisions, to define the inspection procedures needed to assure that basic occupancy and life safety standards are met. Following is a section-by-section explanation of the draft amendments.

Preamble and Section 1.

As with all ordinances, the recitals provide the legislative and procedural histories of the proposed amendments, including the details on the public hearing required for all zoning amendments. The recitals, in turn, are incorporated by reference into Section 1 of the ordinance, as the Council's legislative findings.

Sections 2, 3 and 4 – Chapter 17.04 - Definitions.

To provide clarity and ease of reference in the Zoning Ordinance, and to avoid the need to repeat the cumbersome descriptive phrase of "accessory building containing living quarters" throughout the Zoning Ordinance, definitions have been provided for the terms "accessory dwelling unit" and "coach house." The Council may also wish to consider amending the

statement of the Zoning Ordinance objectives in Section 17.04.020 to include the preservation or restoration of accessory dwelling units and coach houses as a means of preserving a variety of housing stock.

Sections 5, 6, 7, 8 and 9 – Changing status of Coach Houses to permitted uses.

The central mechanism for easing restrictions on the use of coach house units is to convert their status under the Zoning Ordinance from a nonconforming use to a permitted accessory use. This has been done by amending paragraph B.10 of the "Use" provisions of each of the Single-Family Residential District chapters (see current text, above), thereby eliminating the maximum period of vacancy, and permitting their continued residential occupancy.

As drafted, the amendment would be limited to accessory dwelling units, including coach houses, that pre-date the adoption of MC-1-2012, as long as they are now, or once were, used as residential units. The amended language retains the established minimum space requirements and the limit on number of residents, but eliminates the provisions that limit occupancy to household employees and that require registration.

It should be noted that the amendments do not address new accessory dwelling units and coach houses. However, since coach houses are not atypical to estate-sized properties, the Council may wish to consider allowing such structures and uses on properties in the R-2 and R-1 zoning districts that meet the minimum lot size.

Sections 10 and 11 – Certificate of Occupancy replaces annual registration.

Section 10 adds accessory dwelling units to the certificate of occupancy requirements in Section 17.72.020 of the Zoning Ordinance, while Section 11 deletes such units from the annual registration requirement in Section 17.72.030.

The amendment to Section 17.72.020 in Section 10 of MC-1-2012 also adds a new subsection D, which contains an unequivocal exemption from the inspection and certificate of occupancy process for accessory dwelling units that are lawfully registered with the Village when the new amendments go into effect.

The registration requirement in Section 17.72.030 of the Zoning Ordinance was originally added as a means of monitoring non-conforming buildings and uses in the single-family zoning districts, although its phrasing does not clearly contain that limitation. Consequently, the amendment to Section 17.72.030 in Section 11 of MC-1-2012 not only retains the registration requirement for two-family and multi-family dwellings, it now clearly states that it pertains only to such dwellings in the single-family residential zoning districts. (Other Village regulations, such as annual fire and life safety inspections for buildings in the multi-family and commercial zoning districts assure that the Village has ownership and management information for those buildings.)

Sections 12 through 17 – Certificate of Occupancy Amendments

Sections 12 through 17 of MC-1-2012 amend several provisions of Chapter 15.36 of the Village's Building Code, which governs all certificates of occupancy. Because certificates of occupancy are currently linked either to the inspection of work that requires a building permit, or to a change of use or occupancy, provisions specific to the inspection of accessory dwelling units are necessary.

Accordingly, Section 15.36.010 has been amended by distinguishing between certificates of occupancy for permit work or construction activity and certificates of occupancy for accessory dwelling units. (MC-1-2012, Section 12) Consistent with the amendments to Section 17.72.020 and 17.72.030 of the Zoning Ordinance, the amended provision specifically exempts lawfully registered accessory dwelling units from the certificate of occupancy requirement.

Section 15.36.020, which governs the application for the certificate of occupancy, has been amended to waive the application fee for accessory dwelling units if no building permit was required. (MC-1-2012, Section 13) If an accessory dwelling unit requires construction work that is subject to a building permit, the standard application, certificate of occupancy and fee provisions would apply.

Section 15.36.030, which defines the certificate of occupancy procedures, has been amended by adding a provision that applies only to accessory dwelling units. (MC-1-2012, Section 14)

The actual criteria for issuance of a certificate of occupancy are currently set out in Village Code Section 15.36.040, which contains general criteria related to permit work, and Section 15.36.050, which contains the criteria for the change of use or occupancy. The title to Section 15.36.040 has been amended so that it clearly applies only to permit work. (MC-1-2012, Section 15)

It was not necessary to amend Section 15.36.050, but a new Section 15.36.055 has been added, to govern accessory dwelling units. (MC-1-2012, Section 16) The criteria under new Section 13.56.055 are twofold. The first requirement pertains to habitability standards and uses language taken directly from Section 13.56.050. The second requirement is compliance with the requirements of the new paragraph 10 that has been added to Subsection B of the use sections in all five single family residential zoning districts. (See MC-1-2012, Sections 5 through 9)

The final amendment to Chapter 15.36 is to Section 15.36.060. (MC-1-2012, Section 17) Currently, section 15.36.060 requires certificates of occupancy to be permanently posted. This provision dates back to earlier times, when the Village provided frames for occupancy certificates and the certificates were posted in a prominent place, not unlike the posting of inspection certificates in elevators. This practice has long since been abandoned, with the Village retaining copies of certificates of occupancy as they are issued. Section 15.36.060 has therefore been amended to reflect the current practice.

Zoning Amendment Procedures

Should the Council decide to proceed with amending the Zoning Ordinance as outlined above, the following steps would be required:

1. **Scheduling Introduction and Passage of the Ordinance.** As with all ordinances, the process of enacting a Zoning Amendment requires a cycle of at least two regular Council meetings. (The study session does not count as one of these meetings.) Although the Village Code allows for waiving the first reading, Staff does not recommend such an action for Zoning Ordinance amendments.

2. **Scheduling Public Hearing.** Both State law and the Village Code require a public body designated by the Village Council to conduct a public hearing on all proposed zoning amendments. (WVC §17.72.040) Therefore, the Council must publicly designate the hearing body and must set the date and time of the hearing.

   a) **Designate hearing body.** The established practice for prior zoning amendments has been for the Council to designate itself, sitting as Committee of the Whole, as the body for conducting the public hearing, and Village staff recommends that the Council follow this practice for Ordinance MC-1-2012.

   b) **Set hearing date.** The public hearing is typically set to be held in conjunction with one of the Council meetings at which the ordinance is on the Council's agenda for action. If the practice of prior Councils is followed, Ordinance M-1-2012 would first be introduced and, as part of the introduction, the Council would set the hearing for the first regular Council meeting following the required publication of notice, which in this case would be the March 6th Council meeting. (Notice must be published at least 15, but not more than 30 days before the hearing, and the earliest possible publication date in the Winnetka Talk is Thursday, February 16.) In the alternative, the Council could set the hearing date, and defer introduction until the close of the public hearing.

   c) **Other scheduling considerations.**

      i) Because three Trustees are about to cycle off the Council, it is best for the current Council to complete its discussions and to schedule Ordinance MC-1-2012 for final action before the new Council is seated.

      ii) Post-hearing modifications to the ordinance do not require a further public hearing (unless the scope of the ordinance is expanded), so the hearing and adoption could be set for the same meeting, with adoption immediately following the close of the hearing, even if the hearing results in some amendments to the Ordinance.

      iii) If introduction is deferred until after the hearing, the earliest date for passing the ordinance would be shifted at least another two weeks.

Recommendation:

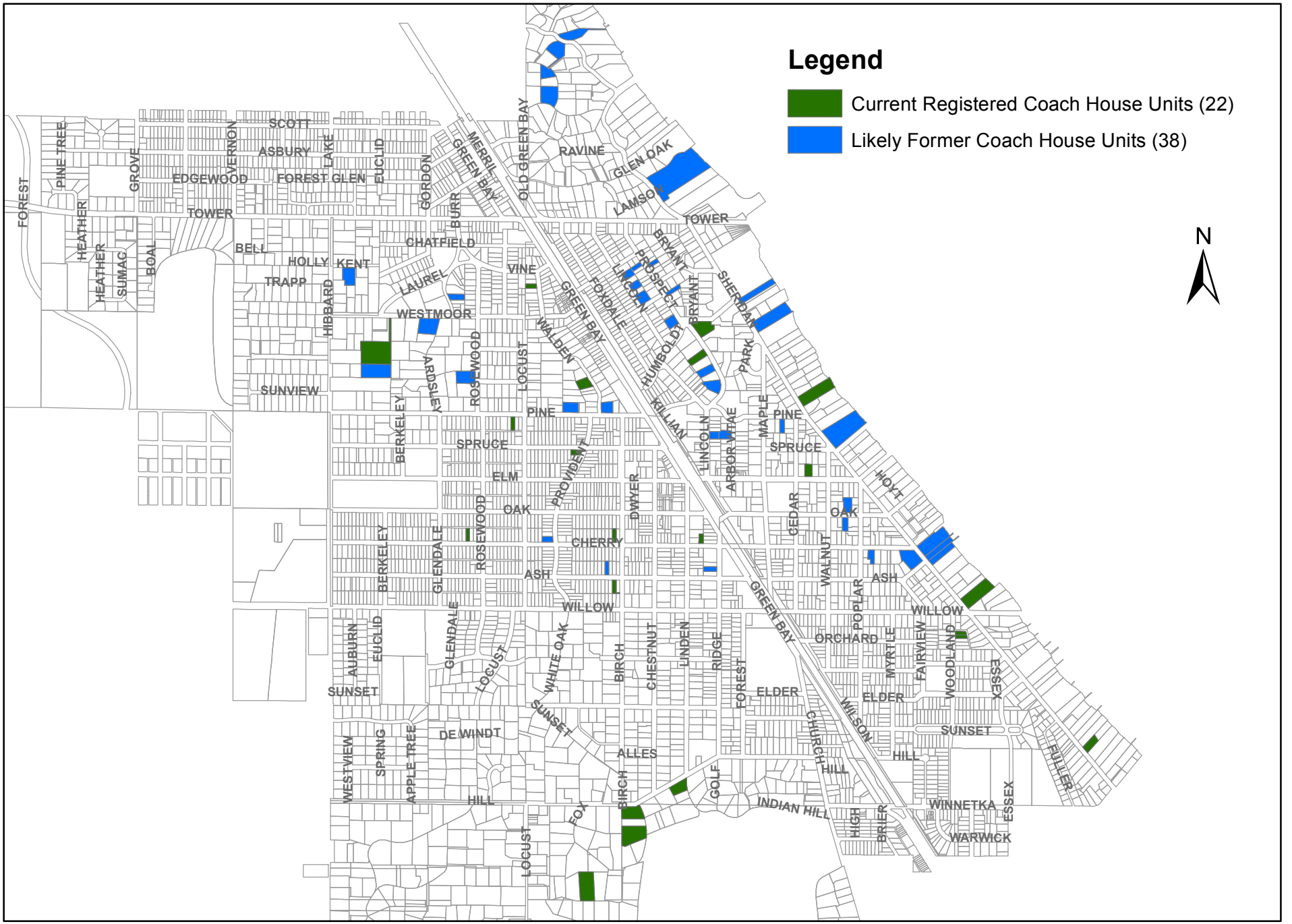
1) Provide comment and policy direction on draft amendments.

2) Consider introduction of Ordinance MC-1-2012, Amending the Winnetka Village Code as It Pertains to Coach Houses..

3) If Ordinance MC-1-2012 is introduced, consider designating the Council, as Committee of the Whole, as the body that will hold the required public hearing.

4) If Ordinance MC-1-2012 is introduced, set the public hearing on the draft Zoning Ordinance amendments for a date on or after March 6, 2012, to allow for publication of notice.

Coach Houses in Winnetka



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ORDINANCE NO. MC-1-2012

AN ORDINANCE
AMENDING THE WINNETKA VILLAGE CODE
AS IT PERTAINS TO COACH HOUSES

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

WHEREAS, the Council of the Village of Winnetka ("Village Council") find that establishing standards and criteria for the use and development of lands and buildings within the Village is a matter pertaining to the government and affairs of the Village; and

WHEREAS, on May 3, 2005, the Village Council, in the exercise of its home rule authority, passed Ordinance M-6-2005, which, *inter alia*, adopted an Amended Affordable Housing Plan ("Amended Plan") and directed the Winnetka Plan Commission to conduct a study and report to the Village Council concerning the details of the various components of the Village's housing policies, including potential amendments to the Winnetka Zoning Ordinance and other provisions of the Winnetka Village Code; and

WHEREAS, pursuant to the Village Council's directive, the Plan Commission undertook an intensive and detailed study, which, after five years, culminated in a study titled "*A Study of Housing Conditions and Needs in the Village of Winnetka*" ("Housing Study"), and an affordable housing report titled "*Reinvigorating a Tradition of Varied, Moderately Priced and Affordable Housing*" ("Housing Report"); and

WHEREAS, one of the recommendations included in the Plan Commission's report was that the Village Council consider relaxing restrictions on coach houses to allow property owners to return previously used coach houses to the Village's housing stock; and

WHEREAS, the Village Council determined that the Plan Commission's recommendations regarding coach houses merit consideration and action as a stand-alone housing and property rights issue, and directed Village Staff to draft possible amendments to the Village Code that would implement the Plan Commission's coach house recommendations; and

WHEREAS, after discussing possible coach house amendments, the Village Council directed staff to prepare an ordinance, set a date for a public hearing and designated itself as the hearing body for the proposed amendments; and

WHEREAS, on due notice thereof, the Village Council, sitting as a Committee of the Whole, held a public hearing on _____, 2012, to consider this ordinance and the draft amendments contained herein.

NOW, THEREFORE, the Council of the Village of Winnetka do ordain as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Subsection A of Section 17.04.030, "Definitions," of Chapter 17.04 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended by adding a new paragraph 3.1, which shall provide as follows:

3.1. Accessory Dwelling Unit. See "Dwelling Unit, Accessory," below.

SECTION 3: Subsection C of Section 17.04.030, "Definitions," of Chapter 17.04 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended by adding a new paragraph 1.5, which shall provide as follows:

1.5. Coach House. "Coach House" means an accessory structure that contains a single accessory dwelling unit, as defined in this section, and no other accessory use.

SECTION 4: Subsection D of Section 17.04.030, "Definitions," of Chapter 17.04 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended by adding a new paragraph 8, which shall provide as follows:

8. Dwelling Unit, Accessory. "Dwelling Unit, Accessory" means a dwelling unit that is an accessory use and that is located in an accessory building on a zoning lot in one of the single family residential zoning districts. An "Accessory Dwelling Unit" may be located in a Coach House, as defined in this chapter, or it may be located in combination with a non-residential accessory use in a single accessory building.

SECTION 5: Paragraph 10 of Subsection B, "Accessory Buildings and Uses" of Section 17.12.020, "Permitted Uses," of the R-5 Single-Family Residential District regulations in Chapter 17.12 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended to provide as follows:

10. An accessory dwelling unit, subject to the following conditions:

a. The accessory structure in which the accessory dwelling unit is located was constructed before [*the effective date of this amendment*].

b. The accessory structure in which the accessory dwelling unit is located was originally constructed as a dwelling unit or was occupied as a dwelling unit at some point in time before [*the effective date of this amendment*].

c. The accessory dwelling unit shall contain not less than three hundred fifty (350) square feet of interior, habitable floor area for the first two persons residing in such dwelling unit, plus one hundred fifty (150) square feet of interior, habitable floor area for each additional person residing in such accessory dwelling unit.

d. No more than seven persons shall reside in any accessory dwelling unit.

e. The owner of the accessory dwelling unit shall obtain a certificate of occupancy as provided in Section 17.72.020 and Chapter 15.36 of this code.

~~No accessory building shall be erected or altered to contain living quarters, except an existing accessory building containing living quarters for a full-time household employee or employees of the family occupying the principal building. Use of an accessory building or a building originally erected as an accessory building, existing and containing occupied living quarters but not occupied by a full-time household employee of the family occupying the principal building shall be considered and treated as a legal nonconformity under Chapter 17.64. Uses permitted in this paragraph may include occupancy by additional persons entitled to occupy a single-family dwelling if the living quarters contain not less than three hundred fifty (350) square feet of interior floor area for the first two persons residing in such single-family dwelling and one hundred fifty (150) square feet of additional interior floor area for each person residing in such single-family dwelling; provided, however, that no occupancy otherwise permitted under this paragraph shall be allowed or continued unless the owner of the principal building shall comply with the registration requirements of Section 17.72.030; provided further that, the number of persons entitled to occupy such living quarters shall not exceed seven;~~

SECTION 6: Paragraph 10 of Subsection B, "Accessory Buildings and Uses" of Section 17.16.020, "Permitted Uses," of the R-4 Single-Family Residential District regulations in Chapter 17.16 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended to provide as follows:

10. An accessory dwelling unit, subject to the following conditions:

a. The accessory structure in which the accessory dwelling unit is located was constructed before [*the effective date of this amendment*].

b. The accessory structure in which the accessory dwelling unit is located was originally constructed as a dwelling unit or was occupied as a dwelling unit at some point in time before [*the effective date of this amendment*].

c. The accessory dwelling unit shall contain not less than three hundred fifty (350) square feet of interior, habitable floor area for the first two persons residing in such dwelling unit, plus one hundred fifty (150) square feet of interior, habitable floor area for each additional person residing in such accessory dwelling unit.

d. No more than seven persons shall reside in any accessory dwelling unit.

e. The owner of the accessory dwelling unit shall obtain a certificate of occupancy as provided in Section 17.72.020 and Chapter 15.36 of this code.

~~No accessory building shall be erected or altered to contain living quarters, except an existing accessory building containing living quarters for a full-time household employee or employees of the family occupying the principal building. Use of an accessory building or a building originally erected as an accessory building, existing and containing occupied living quarters but not occupied by a full-time household employee of the family occupying the principal building shall be considered and treated as a legal nonconformity under Chapter 17.64. Uses permitted in this paragraph may include occupancy by additional persons entitled to occupy a single-family dwelling if the living quarters contain not less than three hundred fifty (350) square feet of interior floor area for the first two persons residing in such single-family dwelling and one hundred fifty (150) square feet of additional interior floor area for each person residing in such single-family dwelling in excess of two; provided, however, that no occupancy otherwise permitted under this paragraph shall be allowed or continued unless the owner of the principal building shall comply with the registration requirements of Section 17.72.030; provided further that, the number of persons entitled to occupy such living quarters shall not exceed seven;~~

SECTION 7: Paragraph 10 of Subsection B, "Accessory Buildings and Uses" of Section 17.20.020, "Permitted Uses," of the R-3 Single-Family Residential District regulations in Chapter 17.20 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is

10. An accessory dwelling unit, subject to the following conditions:

a. The accessory structure in which the accessory dwelling unit is located was constructed before [*the effective date of this amendment*].

b. The accessory structure in which the accessory dwelling unit is located was originally constructed as a dwelling unit or was occupied as a dwelling unit at some point in time before [*the effective date of this amendment*].

c. The accessory dwelling unit shall contain not less than three hundred fifty (350) square feet of interior, habitable floor area for the first two persons residing in such dwelling unit, plus one hundred fifty (150) square feet of interior, habitable floor area for each additional person residing in such accessory dwelling unit.

d. No more than seven persons shall reside in any accessory dwelling unit.

e. The owner of the accessory dwelling unit shall obtain a certificate of occupancy as provided in Section 17.72.020 and Chapter 15.36 of this code.

~~No accessory building shall be erected or altered to contain living quarters, except an existing accessory building containing living quarters for a full-time household employee or employees of the family occupying the principal building. Use of an accessory building or a building originally erected as an accessory building, existing and containing occupied living quarters but not occupied by a full-time household employee of the family occupying the principal building shall be considered and treated as a legal nonconformity under Chapter 17.64. Uses permitted in this paragraph may include occupancy by additional persons entitled to occupy a single-family dwelling if the living quarters contain not less than three hundred fifty (350) square feet of interior floor area for the first two persons residing in such single-family dwelling and one hundred fifty (150) square feet of additional interior floor area for each person residing in such single-family dwelling in excess of two; provided, however, that no occupancy otherwise permitted under this paragraph shall be allowed or continued unless the owner of the principal building shall comply with the registration requirements of Section 17.72.030; provided further that, the number of persons entitled to occupy such living quarters shall not exceed seven~~

SECTION 8: Paragraph 10 of Subsection B, "Accessory Buildings and Uses" of Section 17.24.020, "Permitted Uses," of the R-2 Single-Family Residential District regulations in Chapter 17.24 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended to provide as follows:

10. An accessory dwelling unit, subject to the following conditions:

a. The accessory structure in which the accessory dwelling unit is located was constructed before [*the effective date of this amendment*].

b. The accessory structure in which the accessory dwelling unit is located was originally constructed as a dwelling unit or was occupied as a dwelling unit at some point in time before [*the effective date of this amendment*].

c. The accessory dwelling unit shall contain not less than three hundred fifty (350) square feet of interior, habitable floor area for the first two persons residing in such dwelling unit, plus one hundred fifty (150) square feet of interior, habitable floor area for each additional person residing in such accessory dwelling unit.

d. No more than seven persons shall reside in any accessory dwelling unit.

e. The owner of the accessory dwelling unit shall obtain a certificate of occupancy as provided in Section 17.72.020 and Chapter 15.36 of this code.

~~No accessory building shall be erected or altered to contain living quarters, except an existing accessory building containing living quarters for a full-time household employee or employees of the family occupying the principal building. Use of an accessory building or a building originally erected as an accessory building, existing and containing occupied living quarters but not occupied by a full-time household employee of the family occupying the principal building shall be considered and treated as a legal nonconformity under Chapter 17.64. Uses permitted in this paragraph may include~~

~~occupancy by additional persons entitled to occupy a single-family dwelling if the living quarters contain not less than 350 square feet of interior floor area for the first two persons residing in such single-family dwelling and 150 square feet of additional interior floor area for each person residing in such single-family dwelling in excess of two; provided, however, that no occupancy otherwise permitted under this paragraph shall be allowed or continued unless the owner of the principal building shall comply with the registration requirements of Section 17.72.030; provided further that, the number of persons entitled to occupy such living quarters shall not exceed seven;~~

SECTION 9: Paragraph 10 of Subsection B, "Accessory Buildings and Uses" of Section 17.28.020, "Permitted Uses," of the R-1 Single-Family Residential District regulations in Chapter 17.29 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended to provide as follows:

10. An accessory dwelling unit, subject to the following conditions:

a. The accessory structure in which the accessory dwelling unit is located was constructed before [*the effective date of this amendment*].

b. The accessory structure in which the accessory dwelling unit is located was originally constructed as a dwelling unit or was occupied as a dwelling unit at some point in time before [*the effective date of this amendment*].

c. The accessory dwelling unit shall contain not less than three hundred fifty (350) square feet of interior, habitable floor area for the first two persons residing in such dwelling unit, plus one hundred fifty (150) square feet of interior, habitable floor area for each additional person residing in such accessory dwelling unit.

d. No more than seven persons shall reside in any accessory dwelling unit.

e. The owner of the accessory dwelling unit shall obtain a certificate of occupancy as provided in Section 17.72.020 and Chapter 15.36 of this code.

~~No accessory building shall be erected or altered to contain living quarters, except an existing accessory building containing living quarters for a full-time household employee or employees of the family occupying the principal building. Use of an accessory building or a building originally erected as an accessory building, existing and containing occupied living quarters but not occupied by a full-time household employee of the family occupying the principal building, shall be considered and treated as a legal nonconformity under Chapter 17.64. Uses permitted in this paragraph may include occupancy by additional persons entitled to occupy a single-family dwelling if the living quarters contain not less than 350 square feet of interior floor area for the first two persons residing in such single-family dwelling and 150 square feet of additional interior floor area for each person residing in such single-family dwelling in excess of two; provided, however, that no occupancy otherwise permitted under this paragraph shall be allowed or continued unless the owner of the principal building shall comply with the registration requirements of Section 17.72.030; provided further that, the number of persons entitled to occupy such living quarters shall not exceed seven.~~

SECTION 10: Section 17.72.020, "Certificate of occupancy or use," of Chapter 17.72, "Administration and Enforcement," of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended to provide as follows:

Section 17.72.020 Certificate of occupancy or use.

A. Certificate Required. No building or structure, or addition to such building or structure, the construction or alteration of which requires a building permit, shall be used or occupied unless a certificate of occupancy has first ~~benn~~ been issued by the Zoning Administrator, as provided in Title 15 of this code.

B. Application for Certificate. The application for a building permit shall also be deemed to be an application for certificate of occupancy. For an accessory dwelling unit or other use or occupancy where ~~Where~~ no building permit is required, application for a certificate of occupancy shall be made directly to the Zoning Administrator, in writing.

C. Changes in Occupancy or Use. No change in occupancy or use of land, structures, buildings or portions of such land, structures or buildings shall be made, nor shall any new occupancy or use be established on land or in structures or buildings used wholly or partially for nonresidential purposes, including home occupations, unless a certificate of occupancy or use has first been issued by the Zoning Administrator. The Zoning Administrator shall retain a permanent record copy of every ~~Any~~ certificate of occupancy or use issued under this subsection, including a certificate of occupancy or use issued for a home occupation or for an accessory dwelling unit.~~, shall be subject to inspection by the Director to determine that the use is in conformity with the Zoning Ordinance. Every certificate of occupancy required as a result of a change in use or occupancy, whether issued in connection with a building permit or not, shall be permanently posted in a prominent place on the premises at all times.~~

D. Accessory Dwelling Unit. Notwithstanding the foregoing, no certificate of occupancy or use shall be required for any accessory dwelling unit that is lawfully registered under Section 17.72.030 of this Chapter as of [*the effective date of this amendment*] and the Zoning Administrator shall retain a permanent record copy of the annual registration form then on file for such accessory dwelling as evidence of compliance with this section.

SECTION 11: Section 17.72.030, "Registration of two-family and multiple-family dwelling units and accessory buildings containing living quarters," of Chapter 17.64, "Administration and Enforcement," of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby amended to provide as follows:

Section 17.72.030 Registration of certain two-family and multiple-family dwellings. units and accessory buildings containing living quarters.

A. Annual registration required. The owner of everyAll two-family dwellings and all, multiple-family dwellings or accessory building containing living quarters, subject to the provisions and regulations of Section 17.12.010, 17.16.010, 17.20.010, 17.24.010 or 17.28.010, shall be registered by their owners or individually or by their owners' authorized an agent, register each such dwelling unit with the Zoning Administrator on a yearly basis prior to February 1st each year. Such registration shall be completed on forms furnished by the Zoning Administrator and filed with the Zoning Administrator prior to February 1st of each year.

B. Registration forms. Such The annual registration shall be filed on forms provided by the Zoning Administrator, which forms shall contain the following information with respect to each dwelling unit subject to registration:

1. The street address and unit number of the dwelling unit;
2. The floor or floors on which the dwelling unit is situated;
3. The number of square feet of the interior floor area contained within the dwelling unit;
4. The number of persons entitled to occupy the dwelling unit;
5. The number of persons in fact occupying the dwelling unit;
6. The name and address of the owner of the premises; and
7. The name and address of the owner's agent, if any.

C. B. Registration files. Upon the receipt of a completed registration form, the Zoning Administrator shall mark the same "Approved for Filing," affix the Zoning Administrator's signature to such form and place the form in a file open for public inspection.

SECTION 12: Section 15.36.010 of Chapter 15.36, "Certificates of Occupancy," of the Winnetka Building Code, Title 15 of the Winnetka Village Code, is hereby amended to provide as follows:

Section 15.36.010 Certificate of occupancy required.

A. Permit work or construction activity. A certificate of occupancy, indicating completion of the permit work or other construction activity, shall be obtained from the Village, as provided in this section, prior to any use or occupancy of a structure.

B. Accessory dwelling unit. Except as provided in Section 17.72.020 of this code, a certificate of occupancy shall be obtained from the Village prior to the occupancy of any accessory dwelling unit. No certificate of occupancy or use shall be required for any accessory dwelling unit that is lawfully registered under Section 17.72.030 of this Chapter as of [*the effective date of this amendment*].

SECTION 13: Section 15.36.020 of Chapter 15.36, "Certificates of Occupancy," of the Winnetka Building Code, Title 15 of the Winnetka Village Code, is hereby amended to provide as follows:

Section 15.36.020 Application for certificate.

The application for a building permit shall also be deemed to be an application for certificate of occupancy. Where no building permit is required, application for a certificate of occupancy shall be made directly to the Director, in writing. No fee shall be charged for an application for a certificate of occupancy for an accessory dwelling unit where no building permit is required.

SECTION 14: Section 15.36.030 of Chapter 15.36, "Certificates of Occupancy," of the Winnetka Building Code, Title 15 of the Winnetka Village Code, is hereby amended to provide as follows:

Section 15.36.030 Occupancy permit procedures.

A. Permit work or construction activity. Upon completion of the permit work or other construction activity, and upon the written request of the owner, the Director shall cause the permit work to be inspected. If, upon inspection, the Director determines that the permit work has been completed in conformity with the approved construction documents, and if there are no pending building or departmental orders or uncorrected violations of this code or statutory law, then the Director shall issue a certificate of occupancy. No work shall be inspected if any permit authorizing the work for which the inspection is requested has lapsed as provided in Section 15.32.190. If, upon inspection, the permit work does not qualify for a certificate of occupancy, the Director shall provide a written notice to the owner stating the reasons why a certificate of occupancy cannot be issued. If such written notice has not been given to the owner and a certificate of occupancy has not been issued within ~~a~~ fourteen (14) days ~~period~~ after the inspection, the certificate shall be deemed to have been denied.

B. Accessory dwelling units. Upon the written request of the owner, the Director shall cause the accessory dwelling unit to be inspected. If, upon inspection, the Director determines that the inspected premises meets the criteria for occupancy as provided in Section 15.36.055, and if there are no pending building or departmental orders or uncorrected violations of this code or statutory law, then the Director shall issue a certificate of occupancy. If, upon inspection, the premises does not qualify for a certificate of occupancy, the Director shall provide a written notice to the owner stating the reasons why a certificate of occupancy cannot be issued. If such written notice has not been given to the owner and a certificate of occupancy has not been issued within fourteen (14) days after the inspection, the certificate shall be deemed to have been denied.

SECTION 15: Section 15.36.040 of Chapter 15.36, "Certificates of Occupancy," of the Winnetka Building Code, Title 15 of the Winnetka Village Code, is hereby amended to provide as follows:

Section 15.36.040 General criteria for issuance of certificate for permit work.

No certificate of occupancy for any permit work shall be issued unless (1) the Director has determined that the work has been completed in accordance with the permits and approved construction documents; (2) the permit work has been routinely inspected, as required by the Director in accordance with this code, and is found to be in compliance with this code and in conformity with the approved construction documents and, where applicable, with a certificate of appropriateness of design issued for the permit work; and (3) the Director has determined, after reviewing any compliance plan required pursuant to Chapter 15.54 of this Code, that the work has been performed in full compliance with that chapter. The Director may require as-built drawings or surveys certified by an appropriate Illinois registered professional if he or she determines that such documentation is necessary for approval of the permit work. The Director may require a certificate of completion and compliance from an appropriate Illinois registered design professional prior to approval of the permit work.

SECTION 16: Chapter 15.36, "Certificates of Occupancy," of the Winnetka Building Code, Title 15 of the Winnetka Village Code, is hereby amended by adding a new Section 15.36.055, which shall be titled "Criteria for occupancy of accessory dwelling units" and shall provide as follows:

Section 15.36.055 Criteria for occupancy of accessory dwelling units.

No certificate of occupancy shall be issued for an accessory dwelling unit for which a building permit is not required, unless the Director determines, upon inspection, (1) that the dwelling unit meets minimum health and life-safety requirements, including structural, electrical, mechanical, health and sanitation, plumbing and HVAC standards, and (2) the proposed unit complies with the applicable requirements of Sections 17.12.020(B)(10), 17.16.020(B)(10), 17.20.020(B)(10), 17.24.020(B)(10) and 17.28.020(B)(10), and Section 17.72.020 of Title 17 of this code.

SECTION 17: Section 15.36.060 of Chapter 15.36, "Certificates of Occupancy," of the Winnetka Building Code, Title 15 of the Winnetka Village Code, is hereby amended to provide as follows:

Section 15.36.060 ~~Posting~~ Record of certificate of occupancy.

The Director shall retain a permanent record copy of every ~~Every~~ certificate of occupancy required as a result of a change in use or occupancy for home occupations, two-family and multifamily uses, accessory dwelling units and all nonresidential uses,

whether issued in connection with a building permit or not.~~, shall be permanently posted in a prominent place on the premises at all times.~~

SECTION 18: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 19: This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

PASSED this ___ day of _____, 2012, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____, 2012.

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

Introduced:
Posted:
Passed and Approved:
Posted: