

Regular Meeting  
**WINNETKA VILLAGE COUNCIL**  
510 Green Bay Road  
Winnetka, Illinois 60093  
October 6, 2009  
7:30 p.m.

**AGENDA**

- 1) Call to Order
- 2) Pledge of Allegiance to the Flag
- 3) Quorum
  - a) October 13, 2009, Study Session
  - b) October 20, 2009, Regular Meeting
  - c) October 27, 2009, Special Study Session
- 4) Approval of Agenda
- 5) Consent Agenda
  - a) Village Council Minutes.
    - i) September 8, 2009, Study Session.....3
    - ii) September 15, 2009, Regular Meeting .....6
  - b) Warrant Lists Nos. 1623 and 1624 .....11
  - c) Resolution No. R-31-2009 - Authorizing the Release of Executive Session Minutes and the Destruction of Verbatim Recordings – Adoption..... 12
- 6) Ordinances and Resolutions.
  - a) Ordinance No. M-16-2009 – Zoning Variations: 766 Walden - Adoption.....16
  - b) Ordinance No. MC-11-2009 – Amending Liquor License Classifications to Allow the Limited Sale of Fine Wines and Premium Beers – Adoption.....26
  - c) Resolution No. R-32-2009 – Authorizing a Class E-2 Liquor License – Adoption .....41
  - d) Ordinance No. MC-9-2009 – Amending the Village Code as it Pertains to the Emerald Ash Borer Infestations – Adoption .....44
  - e) Ordinance MC-13-2009 – Reducing the Speed Limit on Walden Road - Introduction .... 48
- 7) Public Comment and Questions
- 8) Old Business – None

9) New Business

- a) Curbside Recycling Contract .....52
- b) Stack Repairs, Winnetka Electric Plant .....64
- c) Water Plant Intake Maintenance Work.....66
- d) Repair Options - Green Bay Road .....67
- e) Holiday Lighting Bids.....70

10) Reports

11) Appointments

12) Executive Session

13) Adjournment

**NOTICE**

All agenda materials are available at [www.villageofwinnetka.org](http://www.villageofwinnetka.org) (*click Council and then Current Agenda*), the Reference Desk at the Winnetka Library, or in the Manager’s Office at Village Hall (2<sup>nd</sup> floor).

Videos of the Regular Village Council meetings are televised on Channel 10, Mondays, Wednesdays, and Fridays at 7:00 p.m. Videos of the meeting may also be viewed on the Internet via a link on the Village’s web site: [www.villageofwinnetka.org](http://www.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 STUDY SESSION**

**September 8, 2009**

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, September 8, at 7:30 p.m.

- 1) Call to Order. President Tucker called the meeting to order at 7:35 p.m. Present: Trustees Gene Greable, Bill Johnson, Linda Pedian, King Poor and Jennifer Spinney. Absent: Trustee Chris Ritz. Also in attendance: Village Manager Doug Williams, Village Attorney Katherine Janega, Public Works Director Steve Saunders, and approximately 5 persons in the audience.
- 2) Flood Risk Reduction Study – Southwest Winnetka. President Tucker thanked the Village’s consultants for their in-depth drainage study and proposed that the Council take time to deliberate before embarking on a major capital investment such as the drainage projects recommended in the report.

Village Engineer Saunders reported that last December, at the direction of Council, the Village hired Christopher B. Burke Engineering, Ltd., (CBBEL) to study drainage systems in the southern and western areas of Winnetka, which were the hardest hit neighborhoods in the September, 2008, storms and flooding. The consultants were asked to determine the capacity of existing drainage systems and to identify possible improvements that could reduce the risk of flooding in the affected areas. He noted that Northfield’s Village Manager, Stacy Sigman, and Northfield’s consulting engineer, Patrick Glen, were at the meeting as some of the proposed drainage improvements impact adjacent areas of Northfield.

Mr. Saunders related the history of drainage issues in Winnetka, dating back to the late 1800’s. He said improvements have been made throughout most of the Village over the past 15 years or so, although no improvements have been made in the CBBEL study areas. He added that the study areas are currently the most problematic, because water in these locales can’t get into the storm sewers fast enough in a heavy rain storm. He stressed that there is no way to flood-proof these areas, but that there are some things that can be done to reduce the risk of recurring floods and the subsequent property damage.

Mr. Saunders then introduced Dave Buckley and Thomas Burke from CCBEL. Mr. Burke gave a PowerPoint presentation, reviewed the results of the extensive study performed by CBBEL. He answered questions from the Council throughout the presentation and reviewed a proposed set of improvements that would have the greatest benefit to the study areas.

Manager Williams reported that from the 1930’s to 1992, the Village’s policy was not to do any significant drainage projects. He recalled that a study done in the 1980’s identified \$2 million in drainage projects, along with \$8 million of street projects, but that a bond referendum to fund those improvements was defeated. He reported that over the last 15 years, the Village implemented a program that made \$5 - \$7 million in drainage improvements throughout Winnetka as part of the Village’s Capital Program budget. He described several funding mechanisms that could be used to pay for the drainage improvements recommended in the CBBEL report, and noted that the Council has the option

to first improve the southern area, which has the biggest problems, and to hold off on the northern study area until a future date.

After preliminary Council discussion and questions, the floor was opened up for public comments.

Bob Fragen, 1230 Lindenwood, asked if his neighborhood would be affected by the improvements to the south study area. Mr. Saunders replied in the affirmative.

Tim Foley, 165 DeWindt, speaking on behalf of the DeWindt Road Association, thanked the Council for their efforts. He said the Association has improved its pump system as much as it can, and that relief from the Village is needed to move water more quickly through the storm sewer system bottleneck identified by the CBBEL report.

Richard Kates, 1326 Tower, said the people with flooding problems need help and urged the Council to make storm drainage improvement projects a priority by redirecting funds from the Streetscape allocation.

The Trustees gave their thoughts on the recommendations of CBBEL.

Trustee Poor indicated that further community input and dialog is needed. He expressed concerns over the impact of overbuilding on flooding and said he sees the CBBEL report as a starting point.

Trustee Pedian observed that the impact of larger homes and more impervious surfaces comes both from within the Village and from upstream development, and stated she views the issue as enormously important for the entire Village and urged that all areas be studied.

Trustee Johnson commented that streetscape affects everyone who shops and pays taxes, as do the Post Office and Willow Road issues, and suggested that the Village take a global view of the issues and set priorities.

Trustee Greable noted that flooding is a constant source of discussion and that the CBBEL study was deliberately focused on the identified problem areas. He stressed the need to act on that information now, and cautioned against setting the report aside and doing more studies. He noted the impact of the streetscape plans on the Village's capital plans, stating that streetscape will reduce the Village reserves, and suggested that the Council should not put off a decision on streetscape until next year.

Trustee Spinney expressed agreement with Trustee Greable. She stressed that both flooding and streetscape are Village issues, cautioned against pitting one neighborhood against another, and urged the Council not to postpone acting on the CBBEL report's recommendations.

President Tucker said there is no need to jump to a decision and that she would like to see a survey of the entire Village to get flooding data on a more global perspective. She said the topic would be brought back for further discussion, and suggested setting up a task force of neighborhood representatives to study the issue and make funding recommendations.

Trustee Pedian stated that the Village should expedite the process for the two areas covered in the CBBEL study while moving to broaden the overall study area.

At the request of the Village Manager, Mr. Saunders provided further historical information about the Village-wide study that was done in the 1980's and explained that changes have already been made to reduce the severity of flooding in areas outside of the current study areas, which is why the regions studied by CBBEL now stand out. He noted that the prior Council singled out the western and southern portions of the Village for this study because they currently have the biggest problem in moving stormwater through their neighborhoods, and that there was no intent to shortchange any other areas in the Village that flood.

Manager Williams thanked the consultants for their report, saying that it is one of the best and most comprehensive drainage studies he had ever seen and that the recommendations were very creative. He said the topic would be brought back in the near future for further Council discussion.

- 3) Update on Financing Options for Major Capital Projects. This item was removed from the agenda.
- 4) Reports. No reports.
- 5) Executive Session. Trustee Pedian moved to adjourn into Executive Session for the purpose of discussing Pending and Probable Litigation pursuant to Section 2(c)(11) of the Illinois Open Meetings Act. Trustee Spinney seconded the motion. By roll call vote, the motion carried. Ayes: Trustees Greable, Johnson, Pedian, Poor, and Spinney. Nays: None. Absent: Trustee Chris Rintz. The Council adjourned into Executive Session at 10:20 p.m.

The Council reconvened into Regular Session at 10:35 p.m. Present: President Tucker, Trustees Greable, Johnson, Pedian, Poor and Spinney. Absent: Trustee Chris Rintz. Also present: Village Manager Doug Williams and Village Attorney Katherine Janega.

- 6) Adjournment. Trustee Spinney, seconded by Trustee Johnson, moved to adjourn the meeting. By roll call vote, the motion carried. Ayes: Trustees Greable, Johnson, Pedian, Poor and Spinney. Nays: None. Absent: Trustee Chris Rintz. The meeting adjourned at 10:36 p.m.

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Recording Secretary

**MINUTES  
WINNETKA VILLAGE COUNCIL  
REGULAR MEETING  
September 15, 2009**

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, September 15, 2009, at 7:30 p.m.

- 1) Call to Order. President Tucker called the meeting to order at 7:33 p.m. Present: Trustees Gene Greable, Bill Johnson, Linda Pedian, King Poor, Chris Rintz and Jennifer Spinney. Absent: None. Also present: Village Manager Doug Williams, Village Attorney Katherine Janega, Police Chief Joe DeLopez, Director of Water & Electric Brian Keys, and five persons in the audience.
- 2) Pledge of Allegiance. President Tucker led the group in the Pledge of Allegiance.
- 3) Quorum.
  - a) October 6, 2009, Regular Meeting. All of the Council members present indicated that they expected to attend.
  - b) October 13, 2009, Study Session. All of the Council members present indicated that they expected to attend.
- 4) Approval of the Agenda. President Tucker announced that Item 10(d), the State of Illinois Emergency Repair Funding - Green Bay Road, had been removed from the Agenda. She then read the list of items on the Consent Agenda. Trustee Johnson, seconded by Trustee Poor, moved to approve the Agenda as presented. By roll call vote, the motion carried. Ayes: Trustees Poor, Johnson, Spinney, Rintz, Pedian, and Greable. Nays: None. Absent: None.
- 5) Consent Agenda.
  - a) Village Council Minutes.
    - i) September 1, 2009, Regular Meeting.
  - b) Warrant Lists Nos. 1621 & 1622. Approving Warrant List No. 1621 in the amount of \$845,208.68, and Warrant List No. 1622 in the amount of \$432,557.65.
  - c) Ordinance No. MC-10-2009 – Amending the Village Code as it Pertains to the Foreign Fire Insurance Board– Adoption. This Ordinance would amend the Village Code to reflect requirements of recent legislation pertaining to membership size of the Foreign Fire Insurance Board by increasing the size of the Board and making minor technical amendments. It was introduced at the September 1st Council meeting.

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

6) Ordinances and Resolutions.

a) Ordinance No. M-16-2009 – Zoning Variations: 766 Walden – Introduction.

Mr. D’Onofrio briefly reviewed this revised request for Maximum Building Size and Side Yard Setback variations to permit the construction of a second floor addition at the rear of the residence at 766 Walden. This matter was discussed at the July 7<sup>th</sup> Council meeting, at which time the applicants requested that it be tabled in order to permit them to reduce the scope of the requested variations. In response to the Council’s discussion at that time, the applicants have submitted modifications to their plan for Council’s consideration. He noted that current GFA and side yard setbacks are legally nonconforming.

Attorney Janega reviewed the draft ordinance and pointed out that recitals are still needed for practical difficulty, particular hardship and reasonable return.

The applicant, Chris Boehm, commented on the scaled-back modifications and presented his perspective that there are compelling arguments to support to his request. He argued that given all of the new construction on comparably sized lots, the standard expectations for comparable homes have changed significantly since the home was purchased, necessitating the improvements if a reasonable return is to be realized. He distributed a survey of similar properties in the neighborhood showing that most comparable homes on the same type of lot have more rooms and more bulk than is being requested. Mr. Boehm explained that they are trying to tastefully overcome functional shortcomings in the house, without changing the character of the home or significantly increasing bulk.

Annette Cole, 772 Walden and the applicant’s neighbor, spoke in support of the proposed improvements.

After a brief discussion, it was the sense of the Trustees that the modified request should move forward. Trustee Greable, seconded by Trustee Spinney, moved to introduce Ordinance No. M-16-2009. By roll call vote, the motion carried. Ayes: Trustees Poor, Johnson, Spinney, Rintz, Pedian, and Greable. Nays: None. Absent: None.

b) Ordinance No. MC-11-2009 – Liquor License – Introduction. Attorney Janega reviewed the applicant’s request and the specifics of the new license class, explaining that the new license category is patterned after a similar license in Wilmette and has been designated as a Class E-2, since it will most closely resemble Winnetka’s Class E and E-1 classifications. She described the general concept of the proposed fine wine and premium beer boutique, explaining the exceptions created for the consumption of wines and beers on the premises as a means of differentiating the store from a pure wine bar.

The Council asked questions of the applicant, Emily Link, who provided further information on the request. With the exception of Trustee Johnson, the Council members were generally supportive of the request.

Police Chief Joe DeLopez stated that he supported the request as well.

Attorney Janega suggested that the ordinance be introduced to keep the process moving forward, and that she will would prepare an amended ordinance with further refinements for Council consideration.

Trustee Poor, seconded by Trustee Pedian, moved to introduce Ordinance No. MC-11-2009. By voice vote, the motion carried.

- c) Ordinance No. MC-9-2009 – Amending the Village Code as it Pertains to the Emerald Ash Borer Infestations – Introduction. Attorney Janega reported that after the discovery of the Emerald Ash Borer (EAB) in Winnetka, the Forestry Code was amended to declare infested trees a nuisance and to limit ash tree removals during the EAB’s flight season. She noted that, due to the spread of the EAB infestation and the expansion of the quarantine area to cover most of northern Illinois, the Village Forester has concluded that the time restrictions are no longer necessary and that it is best not to wait to remove infested trees. She explained that the proposed Forestry Code amendment incorporate State and other regulations by reference, making continuing Code amendments unnecessary and allowing Public Works to issue permits and impose conditions on Ash tree removal as warranted.

Trustee Johnson, seconded by Trustee Spinney, moved to introduce Ordinance No. MC-9-2009. By voice vote, the motion carried.

7) Public Comment and Questions. None.

8) Old Business. None.

9) New Business. None.

- a) Speed Hump Request: Walden Rd. Chief DeLopez reviewed a request from a resident to consider placing speed humps on Winnetka streets, in particular Walden Road. He reported that a speed trailer was placed on Walden for five days, and that the resulting data was analyzed under current standards and did not establish the need for the device. He remarked that Evanston is in the process of advocating the removal of speed humps due to damage to vehicles and injury to personnel. He also summarized the positions submitted on the subject by the Public Works and Fire Departments.

Trustee Poor commented that he lives on that street and that speeding cars are a serious concern for parents of young children. He stated that he does not favor speed humps but, noting that Walden is a winding road, he expressed surprise that the speed limit is 30 MPH, and said he favors having Staff investigate other ways to slow down traffic, including lowering the speed limit to 25 MPH.

After a brief conversation, the consensus of the Council was not to implement any speed humps.

- b) Power Plant Fuel Tank Bids. Mr. Keys provided the following history of this item. In 2006, buried fuel lines used to supply the Electric Plant with a long duration supply of diesel fuel were deemed inoperable due to regulatory requirements. In 2007, the Village Council considered options on how to address the out-of-service fuel lines, but no technology was available for retrofitting the lines with leak detection, and the Council decided to install a tank in the power plant coal bunkers, and to subsequently decommission the fuel lines and remove the underground storage tanks at Tower and Green Bay Roads. In 2008, the Village engaged Strand Associates to determine if the proposed tank installation would meet all regulatory requirements and, if so, to prepare plans, permit submittals and bid specifications.

Mr. Keys reported that all bids received on the proposed project were significantly over budget and that, after discussions with the low bidder, staff determined that a revised design could achieve significant cost savings. Mr. Keys went on to summarize three possible options for locating the tanks and reported that, after considering additional information, staff recommends installing the necessary tank in a new enclosed structure at the lower elevation of the Electric Plant, although this would require rejecting all bids and approving a Change Order to Strand Associates to perform additional engineering services to design the fuel tank structure in the new location.

Manager Williams noted that neither the Fire Chief nor the State Fire Marshal have concerns about the proposed location and that this course of action makes the most sense.

Trustee Rintz expressed disappointment that the consultant had led the Village down a blind alley on the first proposal and would now be paid additional fees for the redesign.

The Council then directed numerous questions to Mr. Keys and, after extensive discussion, Trustee Johnson, seconded by Trustee Spinney, moved to reject all of the bids received for Bid #09-013, Diesel Fuel Oil Storage Tank. By roll call vote, the motion carried unanimously. Ayes: Trustees Johnson, Rintz, Pedian, Poor, Greable, and Spinney. Nays: None. Absent: None.

Trustee Johnson then moved to approve a Change Order to Strand Associates, Inc., in the amount of \$32,000 to perform engineering services required to design the fuel tank structure at the lower elevation of the Electric Plant. The motion was seconded by Trustee Spinney. By roll call vote, the motion carried. Ayes: Trustees Poor, Johnson, Spinney, Pedian, and Greable. Nays: Trustee Rintz. Absent: None.

- c) State of Illinois Emergency Repair Funding - Green Bay Road. As noted earlier, this item was removed from the Agenda

#### 10) Reports

- a) Village President. President Tucker reported that she had attended the first meeting of the NWMC since summer break, and that there was a spirited discussion about pensions and taking a proactive role as a conference to encourage the General Assembly to work toward meaningful pension reform. She invited residents to a Special Study Session on October 27<sup>th</sup> to discuss public pensions. President Tucker also briefly reviewed her core objectives, stating she intends to vet them through public discussion and to produce a working document that provides some focus and direction for the next couple of years.
- b) Trustees.
- i) Trustee Greable announced that the NWMC's Legislative Committee would meet on Wednesday, with pensions being the focus. He added that he attended the Chamber meeting on September 8<sup>th</sup> and brought them up to date on the drainage study.
- ii) Trustee Spinney announced that the Library Board is holding a special meeting to discuss their proposed long-range planning process.
- iii) Trustee Johnson reported that the BCDC met on September 3<sup>rd</sup>, and had a lengthy discussion about parking with the Police Chief. He also mentioned the BCDC press release and resulting article in the TribLocal.

- iv) Trustee Rintz reported that the Design Guidelines are almost finalized, and he hopes they will be on a Council agenda before the end of the year.
- v) Trustee Poor stated that the 9/11 flag memorial at the Cenotaph was very moving and he thanked Genevieve Nielsen for her efforts. He reported that the Environmental and Forestry Commission met on Sept. 9<sup>th</sup> and approved a long-range plan, to be discussed at the Council's October Study Session.
- c) Attorney. Attorney Janega reported that she will be attending the Illinois Municipal Leagues' annual conference next week. She will moderate the day-long attorney's session on Thursday and participate in a panel discussion on Saturday on the FOIA amendments that go into effect on January 1<sup>st</sup>.
- d) Manager. Manager Williams corrected for the record that Foreign Fire Insurance fees generate \$60,000 annually, not \$20,000. He invited all residents to attend the September 28<sup>th</sup> groundbreaking for the Elm Street Metra Station Rehabilitation.

10) Appointments.

- a) President Tucker asked for a motion to appoint Steve Ryan to the Environmental and Forestry Commission as a member at-large for a full term. Trustee Poor, seconded by Trustee Johnson, moved to so appoint Mr. Ryan. By voice vote, the motion carried unanimously.
- b) President Tucker asked for a motion to appoint Jeffrey Liss and Penny Lanphier to serve as Winnetka's representatives to the Community Advisory Group for the Context Sensitive Process to develop a plan for Willow Road from Waukegan Road to the Edens. Trustee Rintz, seconded by Trustee Spinney, moved to appoint Messrs. Brower and Pappas. By voice vote, the motion carried unanimously.

11) Executive Session. Trustee Johnson moved to adjourn into Executive Session to discuss Board Appointments, Personnel, Pending and Probable Litigation, and Collective Bargaining pursuant to Sections 2(c)(3), 2(c)(1), 2(c)(11) and 2(c)(2), respectively, of the Illinois Open Meetings Act. Trustee Poor seconded the motion. By roll call vote, the motion carried. Ayes: Trustees Greable, Johnson, Pedian, Poor, Rintz, and Spinney. Nays: None. Absent: None. The Council adjourned into Executive Session at 10:08 p.m.

The Council reconvened into Regular Session at 10:45 p.m. Present: President Tucker, Trustees Greable, Johnson, Pedian, Poor, Rintz and Spinney. Absent: None. Also present: Village Manager Doug Williams and Village Attorney Katherine Janega.

12) Adjournment. Trustee Johnson, seconded by Trustee Rintz, moved to adjourn the meeting. By roll call vote, the motion carried. Ayes: Trustees Greable, Johnson, Pedian, Poor, Rintz and Spinney. Nays: None. Absent: None. The meeting adjourned at 10:46 p.m.

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Recording Secretary

## AGENDA REPORT

SUBJECT:           **Warrant Lists Nos. 1623 and 1624**

PREPARED BY:    Doug Williams, Village Manager

DATE:             October 1, 2009

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Warrants Lists Nos. 1623 and 1624 are enclosed in each Council member's packet.

**Recommendation:** Consider approving Warrants Lists Nos. 1623 and 1624.

## AGENDA REPORT

**SUBJECT:**                **Resolution R-31-2009**  
**Authorizing the Release of Executive Session Minutes and the**  
**Destruction of Verbatim Recordings**

**PREPARED BY:**        Douglas G. Williams

**DATE:**                    September 28, 2009

Pursuant to the Open Meetings Act, the Village Council is required to examine and approve minutes of Executive Sessions and to release Executive Session minutes that no longer require confidentiality.

In addition, as required by the Open Meetings Act, the Village Council has been recordings its executive sessions since January 1, 2004. The Open Meetings Act requires those verbatim recordings to be retained for 18 months, after which they may be destroyed, provided minutes of the covered meetings have been approved and destruction of the recordings is approved. As with the minutes, the availability of the verbatim recordings for disclosure to the public requires specific authorization or consent to disclosure.

Resolution R-31-2009 which covers the Executive Session minutes from April 14, 2009 through September 15, 2009, has been prepared for the Council's consideration. The resolution also authorizes the destruction of audio recordings of executive sessions from October 2, 2007 through March 18, 2008.

Please note that the resolution indicates the need to retain the confidentiality of 10 sets of minutes due to continuing litigation matters. In addition, the resolution specifically states that the Council is not authorizing or consenting to the public disclosure of the verbatim recordings of executive session meetings.

**Recommendation:**

- 1) Consider adoption of Resolution No. R-31-2009, releasing Executive Session minutes no longer required for reasons of confidentiality and permitting the destruction of the audio recordings of closed meetings from October 2, 2007 through March 18, 2008.

**A RESOLUTION  
DETERMINING THAT THE MINUTES OF CERTAIN CLOSED MEETINGS  
OF THE COUNCIL OF THE VILLAGE OF WINNETKA  
NO LONGER ARE REQUIRED TO BE KEPT CONFIDENTIAL  
AND  
AUTHORIZING THE DESTRUCTION OF  
VERBATIM AUDIO RECORDINGS OF CLOSED MEETINGS SESSIONS**

**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; and

**WHEREAS**, the Council of the Village of Winnetka (the "Village Council") is a public body, as defined in Section 1.02 of the Illinois Open Meetings Act; and

**WHEREAS**, Section 2.06(d) of the Open Meetings Act requires the Village Council to periodically determine and report as to whether the need for confidentiality still exists as to the minutes of the closed sessions of the Council; and

**WHEREAS**, the Village Council has examined the minutes of closed sessions held from April 14, 2009 through September 15, 2009; and

**WHEREAS**, the Village Council has determined that, with the exception of the closed sessions held on the dates set forth in Section 3 of this Resolution, the minutes of all closed sessions of the Council held through September 15, 2009, no longer require confidential treatment and should be made available for public inspection; and

**WHEREAS**, effective January 1, 2004, Section 2.06(c) of the Open Meetings Act requires public bodies to make a verbatim audio or video record of their closed meetings and to retain those tapes for eighteen (18) months; and

**WHEREAS**, as required by section 2.06(c) of the Open Meetings Act, the Village Council makes and retains audio recordings of all of its closed meetings; and

**WHEREAS**, pursuant Section 2.06(e) of the Open Meetings Act, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative or judicial proceeding, other than one brought to enforce the Open Meetings Act, unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or unless the public body consents to the disclosure of the verbatim recording; and

**WHEREAS**, Section 2.06(c) of the Open Meetings Act permits public bodies to destroy the verbatim record of closed meetings without notification to or the approval of a Records Commission or the State Archivist not less than eighteen (18) months after the completion of the meeting recorded, but only after the governmental body approves the destruction of a particular recording and approves the written minutes of the closed meeting; and

**WHEREAS**, the Winnetka Village Council has approved written minutes for each of the closed meetings or closed portions of meetings set forth in Sections 2 and 3 of this Resolution; and

**WHEREAS**, at least eighteen (18) months have passed since the completion of the closed meetings or closed portions of meetings set forth in Section 4 of this Resolution; and

**WHEREAS**, pursuant to Section 2.06 of the Open Meetings Act, the Village Council may order the destruction of the verbatim record even if it continues to withhold the approved written minutes of the closed session until some later period of time; and

**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 Council of the Village hereby publicly discloses the approval of minutes of all closed session meetings or closed session portions of meetings occurring on or before March 17, 2009; and

**SECTION 3:** The Council of the Village of Winnetka find and determine that a need for confidentiality still exists as to the minutes of the following closed session meetings of the Village Council:

April 14, 2009  
April 21, 2009  
June 2, 2009  
June 16, 2009  
July 7, 2009

July 21, 2009  
August 11, 2009  
September 1, 2009  
September 8, 2009  
September 15, 2009

**SECTION 4:** The Council of the Village of Winnetka hereby orders the destruction of the verbatim audio recordings of the following full meetings or portions of meetings:

October 2, 2007	December 11, 2007
October 17, 2007	January 15, 2008
November 6, 2007	February 7, 2008
November 20, 2007	March 18, 2008
December 4, 2007	

**SECTION 5:** Notwithstanding the approval of minutes of closed meetings or closed portions of meetings of the Council of the Village of Winnetka, and notwithstanding the release for public disclosure of the minutes of certain closed meetings or portions of closed meetings, nothing in this Resolution shall be construed as either: (a) a determination that any of the verbatim recordings of closed sessions of the Council of the Village of Winnetka no longer requires confidential treatment, or (b) the consent of the Council of the Village of Winnetka to the disclosure of such verbatim recordings.

**SECTION 6:** This Resolution shall take effect immediately upon its adoption.

**ADOPTED** this \_\_\_\_\_ day of October, 2009, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

## AGENDA REPORT

**TO:** Village Council

**PREPARED BY:** Michael D'Onofrio, Director of Community Development

**DATE:** September 24, 2009

**SUBJECT:** 766 Walden Rd., Ord. No. M-16-2009  
(1) Maximum Building Size  
(2) Side Yard Setback

**REF:** July 7, 2009 Council Meeting, pp. 12-50  
September 15, 2009 Council Meeting, pp. 14-54

Ordinance M-16-2009 grants variations by Ordinance from Section 17.30.040 [Maximum Building Size] and Section 17.30.060 [Side Yard Setback] of the Winnetka Zoning Ordinance to permit the construction of a second floor addition at the rear of the residence that will result in a gross floor area of 3,199.07 s.f., whereas a maximum of 2,875.2 s.f. is permitted, a variation of 323.87 s.f. (11.26%) and a north side yard setback of 6.02 ft., whereas a minimum of 8 ft. is required, a variation of 1.98 ft. (24.75%).

This application was initially before the Council July 7, 2009, at which time the petitioners Chris and Amy Boehm requested the introduction of the ordinance be tabled in order to reduce the scope of the variations requested. The plans have been revised to reduce the gross floor area variation requested by 54.59 s.f. to 3,199.07 s.f., a reduction of 1.9%. In order to reduce the GFA variation request the addition it has been reduced by 2.46 ft. in width along the west wall of the second floor addition (see p. 17). At the September 15, 2009 Village Council meeting the Council approved introduction of Ordinance M-16-2009.

The variations are being requested in order to construct a second floor addition measuring 13.75 ft. (previously 16.21 ft.) x 22.19 ft. over the existing dining room and family room at the northwest corner of the residence. The second floor currently consists of three bedrooms, a bathroom, and a master suite. With the proposed addition a bedroom and bathroom would be added to the second floor resulting in an increase in GFA of 305.11 s.f. The proposed addition would provide a north side yard setback of 6.02 ft., whereas a minimum of 8 ft. is required.

The existing residence is nonconforming with respect to both the GFA and side yard setback requirements. The existing GFA is 2,893.96 s.f., 18.76 s.f. over the maximum permitted GFA, and the existing north side yard setback is 6 ft. to the building wall.

The property is located in the R-5 Single Family Residential District. The home was built in 1951. Subsequent building permits were issued in 1956 to construct a one-story

room addition and in 1993 to construct a two-story addition. The petitioners purchased the property in 2004.

There have been no previous zoning cases for this property.

An attached zoning matrix of zoning requirements summarizes the work proposed under this variation request.

At its June 8, 2009 meeting the ZBA voted 5 to 1 to recommend approval of the variations.

Adoption of the ordinance requires the concurrence of the majority of the Village Council members.

The ordinance presented for introduction was a preliminary draft, which has since been reviewed, amended and approved by the Village Attorney.

**Recommendation**

Consider amending Ordinance M-16-2009.

Consider adoption of Ordinance M-16-2009, granting a variation from the maximum building size and side yard setback requirements.

**ZONING MATRIX**  
Revised 09.08.2009

**ADDRESS: 766 Walden Rd.**  
**CASE NO: 09-06-V2**  
**ZONING: R-5**

<b>ITEM</b>	<b>REQUIREMENT</b>	<b>EXISTING</b>	<b>PROPOSED</b>	<b>TOTAL</b>	<b>STATUS</b>
Min. Lot Size	8,400 SF	7,188 SF	N/A	N/A	EXISTING NONCONFORMING
Min. Average Lot Width	60 FT	49.74 FT	N/A	N/A	EXISTING NONCONFORMING
Max. Roofed Lot Coverage	1,797 SF (1)	1,732.68 SF	0 SF	1,732.68 SF	OK
Max. Gross Floor Area	2,875.2 SF (1)	2,893.96 SF	305.11 SF	3,199.07 SF	<b>323.87 SF (11.26%) VARIATION</b>
Max. Impermeable Lot Coverage	3,594 SF (1)	3,073.64 SF	0 SF	3,073.64 SF	OK
Min. Front Yard (East)	39.91 FT	40.29 FT	N/A	N/A	OK
Min. Side Yard (South)	6 FT	5.94 FT	N/A	N/A	EXISTING NONCONFORMING
Min. Side Yard (North)	8 FT	5.8 FT (2)	6.02 FT	6.02 FT	<b>1.98 FT (24.75%) VARIATION</b>
Min. Rear Yard (West)	21.67 FT	54.87 FT	N/A	N/A	OK

**NOTES:**

(1) Based on lot area of 7,188 SF

(2) Measured to existing nonconforming chimney encroachment. Existing building wall is setback 6 FT.

**AN ORDINANCE GRANTING A VARIATION IN  
THE APPLICATION OF THE ZONING ORDINANCE  
OF THE VILLAGE OF WINNETKA,  
COOK COUNTY, ILLINOIS (766 Walden)**

**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 for the use and development of lands and buildings within the Village and establishing and applying criteria for variations from those standards are matters pertaining to the affairs of the Village; and

**WHEREAS**, the property commonly known as 766 Walden, Winnetka, Illinois (the “Subject Property”), is legally described as follows:

Lot 7 in Heinig’s Subdivision of Lots 24 and 34 in County Clerk’s Division of that part of the Southeast ¼ of Section 17, Township 42 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois; and

**WHEREAS**, the Subject Property is located in the R-5 Zoning District provided in Chapter 17.12 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code; and

**WHEREAS**, on April 9, 2009, the owners of the Subject Property filed an application for the following variation(s) from requirements of the Lot, Space, Bulk and Yard Regulations for Single Family Residential Districts established by Chapter 17.30 of the Zoning Ordinance: (a) a variation from the maximum building size limitations of Section 17.30.040 to permit a gross floor area of 3,253.66 square feet, whereas a maximum of 2,875.2 is allowed, resulting in a variation of 378.46 square feet (13.16%); and (b) a variation from the side yard setback provisions of Section 17.30.060 to permit a north side yard setback of 6.02 feet, where an 8-foot minimum is required, resulting in a variation of 1.98 feet (24.75%), in order to construct a second floor addition over the existing dining room and family room at the northwest corner of the residence; and

**WHEREAS**, on May 11, 2009, on due notice thereof, the Zoning Board of Appeals commenced a public hearing on the requested variations; and

**WHEREAS**, on June 8, 2009, the Zoning Board of Appeals received additional evidence on the application and, by the favorable vote of five of the six members then present, has reported to the Council recommending that the requested variations be granted; and

**WHEREAS**, the owners have since revised their plans by reducing the length of the proposed addition by 2.46 feet at the rear of the house, which has reduced the proposed gross floor area to 3,199.07 square feet, resulting in a revised gross floor area variation request of 324.05 feet (11.26%); and

**WHEREAS**, there are practical difficulties and unique circumstances or a particular hardship associated with carrying out the strict application of the Zoning Ordinance with respect to the Subject Property in that: (a) the Subject Property is improved with a modest single family home that was built in 1951; (b) due to changes in the Zoning Ordinance over the years since construction, the home has legally nonconforming side yard setbacks that cannot be cured without rebuilding the home in its entirety; (c) due to changes in the Zoning Ordinance over the years since original construction and improvements made in 1991, the home has a legally nonconforming gross floor area that cannot be cured without removing portions of the living area of the home; (d) both the roofed lot coverage and the total impermeable surface on the Subject Property are below applicable limits; (e) the proposed addition will be at the rear of the house above the existing dining and family rooms and thus will not increase either the footprint of the building or the amount of impermeable surface on the Subject Property; (f) the proposed addition will be at the rear of the home and will not be visible from the street; (g) the proposed second floor addition will have a sloped roof and will eliminate the flat roof over the northwest corner of the first floor, thereby reducing the potential for ponding and rain damage to the northwest corner of the home; (h) the ridge line of the proposed addition will be lower than the existing ridge line, which is nearly 5 feet below the applicable height limitations; and (i) the strict application of the Village's zoning regulations in this particular instance would not yield sufficient public benefit to outweigh the practical difficulties the strict application would impose on the Owners; and

**WHEREAS**, because of the foregoing practical difficulties and unique circumstances, and because maintaining the existing second floor configuration will reduce the functionality of the second floor, particularly when compared to the improved functionality of the first floor, the Subject Property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the Zoning Ordinance, in that; and

**WHEREAS**, the requested variations will not alter the essential character of the neighborhood because the addition for which the variation is requested will not alter the building's appearance from the street and will improve the building's appearance from the neighboring properties; and

**WHEREAS**, the requested variations will not impair an adequate supply of light and air because the proposed addition is at the rear of the home, and the height of the proposed addition will comply with height regulations be well below applicable height limitations; and

**WHEREAS**, the requested variations will not increase the hazard from fire and other dangers to the Subject Property, as the proposed construction will comply with all applicable building and fire protection codes; and

**WHEREAS**, the requested variations will not diminish the taxable value of land and buildings throughout the Village, and the taxable value of the Subject Property may be increased because of the proposed improvements; and

**WHEREAS**, the proposed construction will not contribute to congestion on the public streets, as the property will continue to be used for single family residential purposes; and

**WHEREAS**, there is no evidence that the requested variations will otherwise impair the public health, safety, comfort, morals, and welfare of the inhabitants of the Village; and

**WHEREAS**, the requested variations are in harmony with the general purpose and intent of the Winnetka Zoning Ordinance, in that they allow the renovation, restoration and rehabilitation of a structurally sound existing building while maintaining the existing scale and appearance of the community and protecting established trees and landscaping.

**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:** The Subject Property, commonly known as 766 Walden, and located in the R-5 Single-Family Residential District provided in Chapter 17.12 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code, is hereby granted the following variations from requirements of the Lot, Space, Bulk and Yard Regulations for Single Family Residential Districts established by Chapter 17.30 of the Zoning Ordinance: (a) a variation from the maximum building size limitations of Section 17.30.040 to permit a gross floor area of 3,199.07 square feet, whereas a maximum of 2,875.2 feet is allowed, resulting in a variation of 324.05 feet (11.26%); and (b) a

variation from the side yard setback provisions of Section 17.30.060 to permit a north side yard setback of 6.02 feet, where an 8-foot minimum is required, resulting in a variation of 1.98 feet (24.75%), in order to construct a second floor addition over the existing dining room and family room at the northwest corner of the residence, in accordance with the plans and elevations submitted with the application for variations.

**SECTION 3:** 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 4:** This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

**PASSED** this 6<sup>th</sup> day of October, 2009, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this 6<sup>th</sup> day of October, 2009.

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

Introduced: September 15, 2009

Posted: September 16, 2009

Passed and Approved: October 6, 2009

Posted: \_\_\_\_\_

**(Note: at the Sept. 15<sup>th</sup> Village Council meeting Trustee Poor asked that the minutes from the July 7<sup>th</sup> meeting be included in the agenda packet; following is an excerpt of the July 7<sup>th</sup> minutes pertaining to 766 Walden.)**

**MINUTES  
WINNETKA VILLAGE COUNCIL  
REGULAR MEETING  
July 7, 2009**

(Approved: July 21, 2009)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, July 7, 2009, at 7:30 p.m.

**6) Ordinances and Resolutions.**

a) Ordinance No. M-16-2009 – Zoning Variations: 766 Walden – Introduction.

Mr. D’Onofrio reviewed a request for Maximum Building Size and Side Yard Setback variations to permit the construction of a second floor addition at the rear of the existing residence, which is nonconforming with respect to both GFA and side yard setback requirements. In doing so, he mentioned that the lot is somewhat smaller than might normally be seen in this neighborhood. The applicants propose to add a bedroom and bath to the current three bedrooms, bath, and master suite. Mr. D’Onofrio reported that the ZBA had voted 5 to 1 to recommend approval of the variations.

Trustee Poor asked Mr. D’Onofrio the approximate size of a 1993 addition noted in the record. Mr. D’Onofrio indicated that it had been approximately 500 sq. ft.

Trustee Pedian remarked that it is a lovely older home, not unlike many in the community that have one limitation or another. She said, however, that she could not see where there are practical difficulties or particular hardship that would justify granting the requested variations. She added that in her opinion a fifth bedroom and third bathroom are not necessary to obtaining a reasonable return. Market conditions, not deficiencies, are driving the return on any given house on the market today and remarked that deficiencies are part and parcel of the character and charm of the Village’s housing stock.

Attorney Janega directed the Council’s attention to the drafter’s notes in the ordinance. She explained that the Zoning Board did not make any factual findings regarding practical difficulties or particular hardship, so the Council would need to identify those in order to complete the drafting of the ordinance. She pointed out that there are numerous lots in the Village that are of a similar size. With regard to the reasonable return issue, she explained that this finding is typically based on the absence of a master suite, eat-in kitchen, family room or mudroom. The existing home has all of these features except the mudroom. Therefore, granting these variations would expand the scope of what is considered a necessary element of reasonable return.

The applicant, Chris Boehm, and his designer, Vince Weber, spoke in support of granting the variations. Mr. Boehm addressed the question of hardship and reasonable return, pointing in particular to the need for a third full bath, the lack of which in his opinion constitutes a considerable deficiency in comparison to comparable homes on the market and significantly impacts the return he can expect to obtain on his property. Mr. Weber addressed structural issues, such as the existing one car garage and front porch that count against GFA, the small size of the existing baths and upstairs hallway, differences in floor levels on the second floor, and alternative design considerations.

Trustee Greable commented that there are five houses on his street alone that have attached one-car garages and indicated that he could not approve this request based solely on the GFA impact of this design feature. He added, however, that it appears that the previous owners did not do a good job in designing the 1993 addition, and as a result the second floor is too small and inadequate for the number of people who live there.

Attorney Janega clarified that reasonable return is not based on the size and amenities of comparable houses, but on size of the house in relation to the property itself and whether comparable properties would be subject to the same restrictions.

Trustee Poor remarked that he believes the Zoning Board struggled to find in favor of these variations, and truly unique circumstances have to run with the land rather than with the current occupant. The driving force in this case appears to be the desire for more space for the inhabitants, but this lot is small and really can't accommodate five bedrooms. With respect to the more difficult standard of reasonable return, this is not a unique lot, as there are many of a similar size in the Village. He pointed out that the house is nonconforming with regard to GFA and that the 1993 addition used up a great deal of the available GFA. This addition would add a lot of bulk on a small lot. He said he cannot see that having only four bedrooms equates to a unique circumstance or particular hardship. He added that the Council must look at the matter as a whole and for the future, being careful to apply the required criteria evenhandedly and being respectful of precedent.

Trustee Spinney indicated that while she appreciates Trustee's Poor's comments about bulk, she finds the project to be a thoughtful one and would be in favor of granting the variations.

Trustee Pedian expressed sensitivity to the issues laid out by the applicant, but reiterated that she could not support the request because the Council needs to be consistent with all homeowners, and the arguments presented do not meet the required criteria.

Trustee Rintz expressed sympathy for the perceived penalty of having an attached garage, but said that residents can't rely on variances to cure the ills of today's

economy. He indicated that if the request were for less square footage, he might be able to support it. He then suggested an alternative design approach.

Trustee Greable commented that in his opinion there is a hardship created by the way the second floor has been laid out. Given that the proposed addition has no impact on the appearance from the street, corrects an unsightly flat room, and helps to preserve the Village's older housing stock, he indicated that he would support the request and believes that the homeowner is entitled to approval in order to have the opportunity to make the home more useable now and in the future.

Trustee Johnson concurred with Trustee Rintz, saying that if the request were for less square footage, he might be more inclined to support it.

Noting that a motion to introduce the draft ordinance would not pass, President Tucker offered the applicant the opportunity to withdraw the application in order to consider other options.

Mr. Boehm withdrew his application from consideration at this time.

## **AGENDA REPORT**

**SUBJECT:**                           **Ordinance MC-11-2009 – Amending Liquor License Classifications to Allow the Limited Sale of Fine Wines and Premium Beers**  
**Resolution R-32-2009 – Authorizing the Issuance of a Class E-2 License to The Winnetka Wine Shop, LLC**

**PREPARED BY:**                   Katherine S. Janega, Village Attorney

**REF:**                               September 1, 2009                   Council Agenda, pp. 31 – 44  
  September 15, 2009               Council Agenda, pp. 55 – 72

**DATE:**                             September 30, 2009

### **Ordinance MC-11-2009**

Ordinance MC-13-2009, which was introduced at the September 15, 2009, creates a new category of liquor license that would allow the issuance of a liquor license for a new specialty retail business that would (i) sell fine bottled wines, with some additional sale of imported beers and domestic craft beers, (ii) have a tasting counter for the limited tastings of those products, (iii) have a gourmet deli lunch service with both eat-in and carry-out service, and (iv) provide a selection of gourmet foods, such as crackers, cheeses and meats. The boutique shop would also provide occasional weekend or evening cooking classes and tasting events, covering such topics as food and wine pairings, the history of wine regions, and differences between wine varieties.

The new classification of liquor license was prompted by a request presented at the September 1, 2009, Council meeting. The new license has been given a classification of E-2, because it bears some similarities to the Class E and Class E-1 categories (formerly held by Corner Cooks and Song O’Sixpence).

The initial draft of the ordinance, which was presented for introduction, was generally patterned after Wilmette’s Class L license, the class of license held by a Wilmette business similar to the one proposed for Winnetka. (A similar business in Glencoe holds a Class A-1 Glencoe license, which is too broad a category, as it is the same classification under which the much larger Binny’s in Hubbard Woods operates.)

Following the introduction of Ordinance MC-11-2009, the Village Attorney met with the applicant to refine definitions and to review details about the size of the business, its hours of operation, possible sidewalk service, routine tastings and tasting events.

Ordinance MC-11-2009 has been amended to reflect the additional information obtained since introduction. Those changes are highlighted in yellow in the revised ordinance and are explained below, with alternate language provided as necessary to identify different policy options.

**Size of premises.** As introduced, the Class E-2 license would require a minimum area of 2,000 square feet and a maximum of 2,500 square feet. Questions were raised at the time of introduction as to how to consider storage areas. For example, the space being considered by the applicant includes more than 1,000 square feet of basement storage which, if factored into the space equation, would exceed 3,000 square feet. However, a 3,000 square-foot retail area might permit a business that is larger than the boutique concept on which this classification is based. At the same time, a very specialized boutique business could operate in less than 1,000 square feet. Consequently, paragraph 7 of Subsection K (on page 7 of the ordinance) has been amended to delete the minimum square footage and to retain the 2,500 square foot maximum, with a qualifier added to exclude storage areas that are not accessible to customers. This brings the applicant's proposal within the limits, provides options for small retail spaces, and avoids encouraging larger businesses before the concept of the E-2 classification has been tested.

**Wine tastings.** The business contemplates two types of wine tastings, one as an adjunct to the purchase of wines, the other as part of a tasting event.

The former category was addressed in Section 7 of the ordinance, which amends Section 5.09.210 of the Village Code. Section 5.09.210 re-states the general statutory prohibition against giving away alcoholic beverages and, in its current form, creates an exception for tastings at grocery stores (Class B licensees). As introduced, the exception for the Class E-2 is based on the Class B exception.

The applicant has inquired about whether the licensee may charge for the tastings, since imposing a charge may serve as a disincentive for persons who might otherwise walk in, taste some samples, and then leave without making a purchase after having sipped four free ounces of fine wines. Section 5.09.210 is merely authorizes the free sampling, but does not require that it be free. To make that distinction clear, and to allow the business person to make the choice, the substance of the tasting provision has been moved to Subsection K, where it is now part of the defining characteristics of the E-2 license. Section 5.09.210 retains a cross-reference to Subsection K, so that the option for a limited give-away is maintained. The amended provision also limits the number of purchase-related, walk-in tastings to four samples.

The tasting event was part of Subsection K, as introduced, and remains in that subsection, with some modifications for the sake of clarity and to distinguish them from the walk-in tasting. The most notable of the amendments is that the limitation on the size and number of tastings has been lifted for these events, which are more akin to events at Corner Cooks, which does not have a comparable limitation.

Both tasting provisions have been amended to address the more stylized tastings that are part of the boutique store concept that characterizes the Class E-2 license. This has been done by requiring tastings in winery tasting glasses rather than disposable cups (the Class B licensee's medium), which also serves to control the size of the tasting.

**Hours.** As introduced, the general hours of the Class E-2 licensee's business would be 11:00 a.m. to 7:00 p.m., with meal service limited to lunch-time. As the applicant has refined her business plan, she anticipates the possibility of business on weekday evenings, as well as on weekends. She has therefore requested that the hours be expanded so that the business can be open from 11:00 a.m. to 10:00 p.m. on Fridays and Saturdays, and from 11:00 a.m. to 8:00 p.m. the rest of the week. The business could remain open until 9:00 p.m. on week nights for private tastings and similar events. The ordinance has been amended to reflect this change by adding a new paragraph 8 to Subsection K. Should the Council decide that the hours originally discussed would be more appropriate, the Council can simply decline to accept this part of the amendments.

**Sidewalk service.** The possibility of sidewalk service was discussed. Given the lateness in the year, and the newness of this type of business, staff has recommended that the applicant not pursue a sidewalk rider at this time. This will give both the licensee and the Village the opportunity to gauge the suitability of this type of business for a sidewalk license.

### **Resolution R-32-2009**

Under the Village's liquor licensing procedures, the Village Code merely establishes categories of licenses, and a Council resolution is required to make an actual license available for a particular licensee. Resolution R-32-2009 would make a Class E-2 license available for the new business, The Winnetka Wine Shop, LLC.

As with all liquor licenses, it is the Village President, acting in her statutory capacity as the Local Liquor Control Commissioner, who actually issues the license. Resolution R-32-2009 contains standard language making the authority to issue the license subject to the licensee's meeting all licensing requirements.

### **Recommendation:**

- 1) Consider amending Ordinance MC-11-2009, as indicated in the revised draft, with further amendments as provided in the alternative language selected by the Council.
- 2) Consider adoption of Ordinance MC-11-2009, amending Chapter 5.09 of the Winnetka Village Code to establish a new liquor license classification that would allow the limited sale of fine wines and premium beers in a boutique beverage shop.
- 3) Consider adopting Resolution R-32-2009, establishing a Class E-2 license for a new business to be operated by a corporation formed by applicant, Emily Link.

**ORDINANCE NO. MC-11-2009**

**AN ORDINANCE  
AMENDING CHAPTER 5.09 OF THE WINNETKA VILLAGE CODE  
ESTABLISHING A NEW LICENSE CLASSIFICATION  
TO ALLOW LIMITED SALE OF FINE WINES AND PREMIUM BEERS**

**WHEREAS**, the Illinois Liquor Control Act of 1934, 235 ILCS 5/1-1 *et seq.*, provides statutory authority for the local licensing and regulation of the sale and service of alcoholic beverages within the Village of Winnetka; and

**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, with 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, including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare of the Village of Winnetka and its citizens; and

**WHEREAS**, the Village Council find that establishing classification of licenses for the retail sale and service of alcoholic beverages and packaged liquors, and establishing the terms and conditions for such licenses are matters pertaining to the affairs of the Village; and

**WHEREAS**, Chapter 5.09 of the Winnetka Village Code establishes local regulations for the sale of alcoholic beverages within the corporate limits of the Village of Winnetka; and

**WHEREAS**, the Village Council find that it is in the best interests of the health, safety morals and general welfare of the Village of Winnetka that various provisions of Chapter 5.09 of the Winnetka Village Code be amended to clarify the Village's regulations pertaining to the retail sale and service of alcoholic beverages and packaged liquors, including the terms and conditions of licenses for such sales and service, and the hours during which such sales and service shall be permitted.

**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:** Section 5.09.010, “Definitions,” of Chapter 5.09, “Liquor Control Regulations,” of Title 5 of the Winnetka Village Code, “Business Licenses and Regulations,” is hereby amended to provide as follows:

**Section 5.09.010 Definitions.**

Unless the context otherwise requires, words and phrases in this chapter shall be construed in accordance with the definitions set forth in this section.

“Alcohol” means the product of distillation of any fermented liquid whether rectified or diluted, whatever may be the origin of such fermented liquid, including synthetic ethyl alcohol, but not including denatured alcohol or wood alcohol.

“Alcoholic beverage” means any beverage that contains alcoholic liquor and that is not sold in its original package. As used in this chapter, the term “alcoholic beverage” shall include individual bottles of wine and individual bottles or cans of beer that are sold for consumption on the premises where sold.

“Alcoholic liquor” means any alcohol, spirits, wine, or beer or any substance, patented or not, containing alcohol, spirits, wine or beer, capable of being consumed as a beverage by a human being. The provisions of this chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with acts of the United States Congress and regulations promulgated under such acts, or to any substance containing not more than one-half of one percent of alcohol by volume.

“Beer” means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, ale, stout, lager beer, porter and the like.

“Domestic craft beer” means beer brewed in the United States by a domestic craft brewer.

“Domestic craft brewer” means an American brewer that has the characteristics of any or all of the following types of brewers: (i) small brewer; (ii) independent brewer; or traditional brewer.

“Fine wine” means wine sold only in glass bottles and made from vinifera (grape varieties) and not from other fermented fruit juices

“Full-service grocery store” means a retail establishment primarily for the sale of food, generally including fresh fruits and vegetables, fresh meats and a variety of packaged products. Such establishment shall consist of at least five thousand (5,000) square feet and shall not normally have retail business hours after 10:00 p.m. in the evening.

“Imported beer” means beer not brewed in the United States.

“Independent brewer” means a craft brewer for which less than 25% of the brewery is owned or controlled by an alcoholic beverage industry member that is not itself a craft brewer; or,

“Licensee” means any person who has been issued a license under this chapter.

“Limited food products store” means a retail establishment for the sale only of fresh foods, frozen or pre-packaged foods, and food-related products, including packaged meals either prepared on the premises or prepared for sale solely on the premises. Such establishment shall not normally have retail business hours after 7:00 p.m. or before 8:30 a.m.

“Original package” means any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

“Restaurant” means any public place kept, used, maintained, advertised and held out to the public as a place where complete meals are served, and where complete meals are actually and regularly served, such space being provided with adequate and sanitary kitchen and dining room equipment and having employed in such space a sufficient number and kind of employees to prepare, cook and serve suitable food for its patrons, where a host or hostess is present to seat patrons, where patrons order from individual pre-printed menus, where orders are taken from and food is served to patrons while they are seated at tables, where complete meals are served using nondisposable dishes, glassware and utensils, and at which the service of alcoholic beverages is incidental and complementary to such meal service.

“Sale” means any transfer, exchange or barter in any manner, or by any means whatsoever, including the transfer of alcoholic liquors by and through the transfer or negotiation of warehouse receipts or certificates, for a consideration and includes and means all sales made by any person, with the principal, proprietor, agent, servant or employee.

“Sale at retail,” “sell at retail” or “retail sale” means sales for use or consumption and not for resale in any form.

“Sale of package liquor” means the sale of alcoholic liquor in the original package for use or consumption off the premises where sold.

“Service” ~~shall~~ means and includes any or all of the following: (i) the service or delivery of any alcoholic beverage to any person by any licensee or employee or agent of such licensee; (ii) the consumption of any alcoholic beverage by any person on the licensed premises; and (iii) the presence on a table, bar or counter, or in the hand of any person on the licensed premises, of any alcoholic beverage in any form of container, including without limitation a bottle, can, glass or pitcher.

“Small brewer” means a brewer that has annual production of less than two million barrels or otherwise qualifies for the federal small brewer's excise tax differential, as administered by the U.S. Treasury Department by producing less than two million barrels annually; or,

“Specialty beverage store” means a means a retail establishment whose principal business is the sale at retail of fine wines, with ancillary sales limited to related accessories, small gourmet food products, and specialty gift products such as fine food accessories. A specialty beverage store may also include the sale at retail of premium imported beers and/or domestic craft beers and related accessories, provided that such sales are at all times subordinate to the sale of fine wines.

“Specialty Restaurant” means any public place kept, used, maintained, advertised and held out to the public as a place where complete meals are served, and where complete meals are actually and regularly served, such space being provided with adequate and sanitary kitchen and dining room equipment and having employed in such space a sufficient number and kind of employees to prepare, cook and serve suitable food for its patrons, where a host or hostess is present to seat patrons, where all patrons are served the same prix fixe, multi-course meal at a scheduled seating, where admission to the scheduled seating is by reservation only, where food is served to patrons while they are seated at tables or at a counter, where the meals are served using nondisposable dishes, glassware and utensils, and at which the service of alcoholic beverages is incidental and complementary to such meal service.

“Spirits” means any beverage which contains alcohol obtained by distillation, mixed with water or other substances in solution, and includes brandy, rum, whiskey, gin, or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

“Traditional brewer” means a brewer that either (i) has an all-malt flagship beer that has the greatest volume of sales among all of the brewer's brands, or (ii) has at least 50% of its sales volume in either all-malt beers or in beers that use adjuncts to enhance, rather than lighten, the flavor of the beer.

“Wine” means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.

**SECTION 3:** Section 5.09.100 of the Chapter 5.09, Liquor Control Regulations, of Title 5 of the Winnetka Village Code, “Business Licenses and Regulations,” is hereby amended to provide as follows:

**Section 5.09.100 Classification of Licenses**

A. Class A Licenses. Class A licenses authorize the retail sale and service of alcoholic beverages by restaurants, but only when such sales and service are incidental and complementary to the sale and service of complete meals for consumption only on the premises where sold, which incidental and complementary sales and service may include the occasional service of alcoholic beverages alone or with less than a full meal, subject to the provisions of Section 5.09.205 of this Chapter.

B. Class A-1 Licenses. Class A-1 licenses authorize the retail sale and service of alcoholic beverages by restaurants, but only when such sales and service are incidental and complementary to the sale and service of complete meals served in multiple courses for consumption only on the premises where sold, which incidental and complementary sales and service may include the service of food or liquor at a counter, bar or waiting area, subject to the conditions set forth in this subsection. Subject to the provisions of Section 5.09.205 of this Chapter, such incidental and complementary sales and service of alcoholic beverages may include the occasional sale and service of alcoholic beverages alone or with less than a full meal.

1. Except as provided in section 5.09.205 of this Chapter, the counter, bar or waiting area shall be restricted to patrons who have been seated by the restaurant's host or hostess.

2. (Repealed.)

3. (Repealed.)

4. (Repealed.)

5. The percentage of the total space available to patrons that is allocated to any lounge or waiting area in which a bar, counter or shelf or any substitute for such bar, counter or shelf will be located, shall not exceed ten (10) percent of the total space of the premises accessible to patrons.

C. (Repealed.)

D. Class B Licenses. Class B licenses authorize the sale of package liquor in a full-service grocery store. A Class B license shall authorize the licensee to use no more than ten (10) percent of the total floor space of the full-service grocery store for the display and sale of alcoholic liquor in the original package.

E. Class C Licenses. Class C licenses authorize the retail sale and service of alcoholic beverages by civic, fraternal, service or charitable not-for-pecuniary-profit organizations, at picnics, outings, festivals, theater nights or other such similar special occasions for consumption on the premises or within the area specifically designated for such license. No more than seven such licenses shall be issued to any one licensee within any calendar year. The license shall specify the date(s) and hours for the authorized sale of alcoholic liquors under this section.

F. Class D Licenses. Class D licenses authorize the retail sale of wine in the original package for consumption off the premises where sold and where delivery is made exclusively through the mail or similar package delivery service.

G. Class D-1 Licenses. Class D-1 licenses authorize the sale of wine at wholesale in the original package by an importer/distributor to a Class D licensee as provided in this chapter.

H. Television Rider License. Television rider licenses authorize Class A or Class A-1 licensees to place a one or more televisions on the licensed premises in an area where patrons are served, subject to the following conditions: (1) no signs on the premises shall advertise the presence of the television; (2) no promotions or advertisements for the restaurant shall include reference to the presence of the television; and (3) the Local Liquor Commissioner shall have the authority and discretion to determine the number and size of televisions that shall be permitted, and to impose such other conditions or limitations he or she may deem necessary and appropriate, either in the general exercise of his or her rulemaking powers, or as a specific condition or limitation related to the nature of the restaurant operated by the licensee.

I. Class E Licenses. Class E licenses authorize the retail sale of wine only, by a limited food products store, subject to all of the following conditions:

1. The wine must be sold in its original package, for consumption only off the premises where sold, and not for consumption on the premises where sold.

2. The sale of the wine must be incidental and complementary to the sale of food for consumption off the premises. It is unlawful for any holder of a Class E license to render a bill for sale of wine in its original package which does not include a charge for food to be consumed off the premises.

3. All wine sold under a Class E license shall be paid for and delivered to the purchaser only on the premises of the limited food products store operated by the licensee.

4. No more than ten (10) percent of the floor space of the limited food products store used by the licensee for the display and sale of merchandise may be used for the display and sale of wine. The remainder of such floor space shall be for the display and sale of other merchandise.

5. A limited food products store may be operated in the same premises as a specialty restaurant, provided the food sales and display area is separate from the meal service area.

J. Class E-1 Licenses. Class E-1 licenses authorize the retail sale of beer or wine by a limited food products store, subject to all of the following conditions:

1. (Reserved.)

2. The beer or wine must be sold in its original package.

3. The sale of the beer or wine must be incidental and complementary to the sale of food for consumption on or off the premises. Subject to the provisions of Section 5.09.205 of this Chapter, such incidental and complementary sales may include the occasional sale of wine in its original package without the sale of food.

3. All beer or wine sold under a Class E-1 license shall be paid for and delivered to the purchaser only on the premises of the limited food products store operated by the licensee.

4. No more than ten (10) percent of the floor space of the limited food products store used by the licensee for the display and sale of merchandise may be used for the display and sale of wine. The remainder of such floor space shall be for the display and sale of other merchandise, except that the display of beer for sale is prohibited.

K. Class E-2 Licenses. Class E-2 licenses authorize the retail sale of fine wines, premium imported beer and domestic craft beer at a specialty beverage store, subject to the following conditions:

1. Except as provided in paragraphs 2 through 5 of this subsection, the wine must be sold in its original package, for consumption only off the premises where sold.

2. The limited tasting of small quantities of varieties of fine wine, imported beer, and domestic craft beer shall be permitted on the licensed premises, subject to the following conditions:

a. The tasting shall be provided at a counter identified and used solely for that purpose.

b. The licensee may charge a fee for such tastings; provided, that the fee shall be applied to the contemporaneous purchase of a fine wine, imported beer or domestic craft beer.

c. All tasting samples shall be served in winery tasting glasses.

d. No more than four tasting samples shall be served to any person, regardless of the type or types of beverages sampled.

- e. No signage on the premises shall advertise the availability of samples.
3. The tasting of varieties of fine wine, imported beer, and domestic craft beer shall be permitted at private events, subject to the following conditions:
- a. The event must require advance registration, which shall include a fixed-price registration fee.
- b. The store must be closed to the general public during the event.
- c. The event must be for the purpose of providing instruction pertaining to the production, qualities, selection and use of fine wines, imported beers or domestic craft beers.
- d. The class or event must have a written agenda or curriculum.
- e. The class or event must end by 9:00 p.m.
4. The retail display area devoted to the sale of beer shall not exceed 10% of the total retail display area.
5. In addition, a Class E-2 licensee shall be permitted to serve fine wine, imported beer and domestic craft beer for immediate consumption on the licensed premises, subject to the following conditions:
- i. Such service must be incidental and complementary to the concurrent service of meals sold for consumption on the premises by patrons seated at tables.
- ii. The meals may be pre-packaged meals that are prepared off-premises.
- iii. The meals shall be served using non-disposable dishes, glassware and utensils.
- iv. The meals shall not be served at a bar or counter.
- v. The table seating area must be separated from the retail area of the license premises by a rail or similar means to segregate it from the retail area of the license premises, but shall not be located in a separate room.
- vi. The table seating area must not exceed 30% of the total interior area of licensed premises open to patrons, not including restrooms.
6. No tobacco product of any kind shall be sold or offered for sale on the licensed premises.
7. The areas of the licensed premises shall not be more than two thousand, five hundred (2,500) square feet, excluding storage areas not accessible to customers.
8. The hours of operation of the licensed business shall be limited to 11:00 a.m. to 10:00 p.m. on Friday and Saturday and 11:00 a.m. to 8 p.m. on all other days of the week; provided, that this limitation shall not apply to events authorized by paragraph 3 of this subsection K.

~~L.~~ ~~K.~~—Packaged Meal Rider License. Packaged meal rider licenses authorize the retail sale, by a Class A or Class A-1 licensee, of beer and wine in the original package, for consumption only off the premises where sold, and not for consumption on the premises, subject to the following conditions:

1. Such sale of wine or beer shall be incidental and complementary to the sale of a complete meal prepared on the licensed premises for consumption off the licensed premises.
2. It is unlawful for any holder of a packaged meal rider license to render a bill for the sale of wine or beer in its original package which does not include a charge for a complete meal.

3. All wine and beer sold under a packaged meal rider license shall be paid for and delivered to the purchaser only on the premises of the restaurant operated by the licensee.

4. There shall be no display of wine or beer offered for sale under a packaged meal rider license, except to the extent that wine or beer is displayed as part of the normal operations of the restaurant for which the Class A or Class A-1 license was issued. (Prior code § 35.10)

M. L.—Sidewalk Restaurant Rider License. Sidewalk restaurant rider licenses authorize Class A, Class A-1 or Class E-1 licensees to sell and serve beer or wine at retail for consumption by customers seated at tables at a permitted sidewalk restaurant located on the public sidewalk adjacent to the premises for which the Class-A ,Class A-1 or Class E-1 license was issued, subject to the following conditions:

1. The sale and service of the beer or wine must be incidental and complementary to the sale and service of complete meals for consumption only at a table in the area defined in the license.

2. Except as provided in section 5.09.205 of this Chapter, it is unlawful for any holder of a sidewalk restaurant rider license to render a bill for the sale of wine or beer that does not include a charge for a complete meal.

3. The sale, service and consumption of the beer or wine at the sidewalk restaurant shall cease no later than the hour specified in Section 5.08.250.A of this Chapter unless the Village Council specifies an earlier time in an ordinance adopted at the time it authorizes the license.

4. The area for service shall be contiguous to the premises for which the Class A, Class A-1 or Class E-1 license is issued, shall be defined in the application and specified in the license, and shall be separated from the pedestrian areas of the public sidewalk by fencing, planters or such other device as may be specified by the Local Liquor Commissioner in the license.

5. The licensee shall indemnify and hold harmless the Village, its officers and employees from any and all costs arising from claims for personal injury or property damage resulting in any way from the licensee's use of the public way, whether the claim, injury or damages arise from an incident on the licensed premises or on the adjacent portion of the public way that remains open for public use.

6. The licensee shall maintain dram shop insurance in an amount specified by statute or ordinance, or by rule of the State Liquor Control Commission or the Local Liquor Commissioner, but in no event shall the amount of dram shop insurance be less than \$1,000,000.

7. The licensee shall maintain general liability insurance coverage of at least \$2 million, with excess liability coverage of at least an additional \$2 million, with the Village named as additional insured. The certificate of insurance shall be in a form acceptable to the Village.

8. The licensed premises shall be supervised at all times by an employee of the restaurant who is at least 21 years old.

9. The term of any sidewalk restaurant rider license shall begin no earlier than April 1 of any year and shall end no later than November 30 of the same year, except that no service shall be allowed under any such license when weather conditions necessitate the removal of snow or other debris from the public sidewalks.

10. Every sidewalk restaurant rider license issued pursuant to this subsection shall expire on December 1 of the year it is issued and shall not be subject to renewal. Any Class A, Class A-1 or Class E-1 licensee who operates a permitted sidewalk restaurant may apply for a new sidewalk restaurant rider license to which the rider is attached, provided that the application for the sidewalk restaurant rider license shall be de novo each year, and being granted a sidewalk restaurant rider license in any year shall not be deemed to create a right or expectation of renewal or reissuance of the sidewalk restaurant rider license for the following or any subsequent year.

11. Any licensee who violates any provision of a sidewalk restaurant rider may be disqualified from receiving a sidewalk restaurant rider for any location in the Village for a period of up to 5 years.

12. The Local Liquor Commissioner, in the exercise of his or her discretion, shall have the authority to impose such other conditions for the issuance of a sidewalk restaurant rider license as he or she may deem reasonably necessary.

~~N. M.~~ Class P License. The Class P license authorizes the Winnetka Park District to engage in the retail sale and service of alcoholic beverages, in conjunction with the operation of the food service facility located in the clubhouse of the Winnetka Park District Golf Course, to persons the attendant at the food service facility reasonably believes to be at the Winnetka Park District Golfing Facilities for the principal purpose of engaging in golfing activities, for consumption only in the food service area of the clubhouse, provided such sales and service are incidental and complementary to the sale and service of food. Subject to the terms and conditions of this subsection, food and liquor may be served at a counter, bar or waiting area within the clubhouse food service facility. Subject to the provisions of Section 5.09.205 of this chapter, such incidental and complementary sales and service of alcoholic beverages may include the occasional service of alcoholic beverages alone. All sales and service of alcoholic beverages pursuant to the Class P license shall be subject to the following conditions:

1. Except as provided in Section 5.09.205 of this Chapter, the counter, bar or waiting area shall be restricted to persons the attendant at the food service facility reasonably believes to be at the Winnetka Park District Golfing Facilities for the principal purpose of engaging in golfing activities.

2. The percentage of the total space available that is allocated to counter, bar and waiting area service shall not exceed ten (10) percent of the total space of the food service facility that is accessible to patrons.

3. The sale of alcoholic beverages shall be permitted only during the months of April through October.

**SECTION 4:** Section 5.09.250 of the Chapter 5.09, Liquor Control Regulations, of Title 5 of the Winnetka Village Code, “Business Licenses and Regulations,” is hereby amended to provide as follows:

**Section 5.09.250 Hours of service.**

A. The sale and service of alcoholic beverages by a restaurant or specialty restaurant under a Class A or Class A-1 license, and the consumption of alcoholic beverages under such licenses, shall be permitted only between the hours of 11:00 a.m. and 11:00 p.m.

each day of the week, unless the license specifically limits the days or hours of such sales and service. No restaurant or specialty restaurant authorized to serve alcoholic beverages under a Class A or Class A-1 license shall remain open after twelve midnight, except under the following circumstances:

1. Patrons may be allowed to remain within the premises after twelve midnight to complete a meal that was served prior to 11:30 p.m., provided: that no additional patrons shall be admitted, that no additional food or beverages of any kind shall be served to anyone after twelve midnight, and that all patrons shall leave the premises no later than 12:30 a.m.

2. Such restaurants may remain open to the public until two a.m. on January 1<sup>st</sup>, provided that all sales and service of food and alcoholic beverages shall cease at 1:00 a.m. on January 1<sup>st</sup> and no additional patrons shall be admitted after that time.

B. The sale and service of beer or wine under a sidewalk restaurant rider license, and the consumption of beer or wine under such license, shall be permitted only between the hours of 11:00 a.m. and 9:00 p.m. Sundays through Thursdays and 11:00 a.m. and 10:00 p.m. on Fridays and Saturdays.

C. The sale of alcoholic liquor by a full-service grocery store under a Class B license shall be permitted only between the hours of 7:00 a.m. and 10:00 p.m. each day of the week.

D. The sale and service of alcoholic beverages by a civic, fraternal, service or charitable not-for-pecuniary-profit organization under a Class C licensee, and the consumption of alcoholic beverages under such license, shall be permitted only on the dates and during the hours specified in the license. The sale, service and consumption of liquor may begin on or after the hour of 11:00 a.m. of one day and may continue until 2:00 a.m. of the following day, subject to the following limitations:

1. Between the hours of 11:00 a.m. of one day and 2:00 a.m. of the following day, for any or all of the days specified in the license if the alcoholic beverages are sold and consumed indoors in a fixed, permanent structure.

2. Between the hours of 11:00 a.m. of one day and 2:00 a.m. of the following day, for any or all of the days specified in the license, if the alcoholic beverages are sold in a tent or comparable temporary or movable structure, for consumption at tables and chairs located within such tent or structure, provided the sale or consumption of alcoholic beverages is incidental and complementary to the sale and consumption of other foods.

3. Between the hours of 11:00 a.m. and 10:00 p.m. of each day or days specified in the license if the alcoholic beverages are sold or consumed outdoors, or in a tent, booth, concession stand, or other such temporary or movable structure, provided the sale, service or consumption of alcoholic beverages is incidental and complementary to the sale and consumption of other foods.

4. The sale, service and consumption of alcoholic beverages shall be prohibited between the hours of 2:00 a.m. and 11:00 a.m. of any day.

E. The sale or service of beer or wine ~~by a limited food products store~~ under a Class E, ~~or~~ Class E-1 or Class E-2 license shall be permitted only during the regular business

hours of such store; provided that the service of fine wine, imported beer or domestic craft beer with food shall be limited to the hours between 11:00 a.m. and 8:00 p.m.

F. Any establishment that serves alcoholic beverages without the service of food shall cease such service and remove all partially consumed alcoholic beverages and all serving containers for such beverages at least 30 minutes before the establishment is required to cease all liquor service under the terms of its liquor license.

G. Alcoholic beverages may be sold and served pursuant to a Class P license between the hours of 11:00 a.m. and 7:30 p.m., of any day the Winnetka Park District Golfing Facilities are open for golfing activities and the food service facility at the clubhouse is in operation.

H. All liquor licensees shall cease the sale and service of alcoholic beverages and shall remove all partially consumed alcoholic beverages and serving containers for such beverages by the times required for their respective license classifications, as provided in this Section 5.09.250.

**SECTION 5:** Section 5.09.110 of Chapter 5.09, Liquor Control Regulations, of Title 5 of the Winnetka Village Code, “Business Licenses and Regulations,” is hereby amended to provide as follows:

**Section 5.09.110 License fees**

A. Fees Set by Council. The annual fee for all licenses issued under the provisions of this chapter shall be set from time to time by resolution of the Village Council.

B. Proration of Fees. If a Class A, Class A-1, television rider, packaged meal rider, Class B, Class D, Class D-1, Class E, Class E-1 Class E-2 or Class P license is issued after April 1<sup>st</sup>, the license fee shall be reduced in proportion to the number of full calendar months that expired in the license year prior to the issuance of the license.

**SECTION 6:** Section 5.09.160 of Chapter 5.09, Liquor Control Regulations, of Title 5 of the Winnetka Village Code, “Business Licenses and Regulations,” is hereby amended to provide as follows:

**Section 5.09.160 License Renewals.**

A. Any Class A, Class A-1, television rider, packaged meal rider, Class B, Class D, Class D-1, Class E, Class E-1, Class E-2 or Class P licensee may renew his or her license upon its expiration; provided, he or she is then eligible for an original application to receive a license and the premises for which such license renewal is sought are suitable for such purpose. Such license renewal shall not be construed as a vested right and nothing in this chapter shall prevent the Village President and Trustees from decreasing the number of licenses that may be issued within the Village. All applications for the renewal of a liquor license shall include a statement describing all work on or alterations to the licensed premises during the term of the current license.

B. Sidewalk restaurant rider licenses are not subject to renewal and each application for a sidewalk restaurant rider license shall be considered de novo, regardless of whether the applicant has previously held such a license.

**SECTION 7:** Section 5.09.210 of Chapter 5.09, Liquor Control Regulations, of Title 5 of the Winnetka Village Code, “Business Licenses and Regulations,” is hereby amended to provide as follows:

**Section 5.09.210 Give-away prohibited.**

A. Prohibition. Except as provided in the following subsections B and C, it is unlawful for any person to give away or otherwise dispense free of charge, by the drink or in any other manner, within the Village, an alcoholic beverage with the intent of promoting the sale of an alcoholic beverage.

B. Exception for Class B Licensees. ~~except that the giving away by a~~ Class B licensee shall be permitted to give away, without charge, of wine in small and limited amounts for tasting purposes only, immediately prior and ~~incident~~ incidental to, the sale of wine in the original package for consumption off the premises ~~shall not be considered a violation of this section~~. Such give-away, ~~however~~, shall be subject to all of the following conditions and limitations:

1. The availability of wine-tasting shall not be advertised through any public media or other means of communication other than on the premises where tasting is conducted.

2. ~~(A) the~~ The tasting shall be attended by and supervised by a full-time employee and only in a designated area on the licensed premises as approved by the Local Liquor Control Commissioner and designated in the license.

3. ~~(B) the~~ The actual amount of wine tasted by each taster may not exceed an ounce.

4. ~~(C) the~~ The sample shall be served in a container which shall be disposed of following the sampling. ~~Furthermore, it is declared unlawful to advertise the availability of wine tasting through any public media or other means of communication other than on the premises where such tasting shall be conducted.~~

C. Exception for Class E-2 Licensees. A Class E-2 licensee shall be permitted to give away, without charge, fine wines, premium imported beer and American craft beer in small and limited amounts for tasting purposes only, immediately prior and incidental to, the sale such beverage in the original package for consumption off the premises; provided the tasting or give-away complies with the provisions of paragraph 2 of Section 5.09.100(K) of this Code.

**SECTION 8:** This Ordinance 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.

**RESOLUTION NO. R-32-2009**

**A RESOLUTION AUTHORIZING A CLASS E-2 LIQUOR LICENSE FOR THE WINNETKA WINE SHOP, LLC**

**WHEREAS**, the Council of the Village of Winnetka has passed Ordinance MC-11-2009, establishing a new Class E-2 liquor license classification; and

**WHEREAS**, the Local Liquor Commissioner has received an application from The Winnetka Wine Shop, LLC, requesting a Class E-2 Liquor License for a new specialty beverage shop to be known as The Winnetka Wine Shop, that will be located at [Location to be inserted when signed lease is submitted with application]; and

**WHEREAS**, Council action is required to create a new Class E-2 Liquor License for eventual issuance to the above-described business; and

**WHEREAS**, because renovations to the space have not been fully completed, and the details of the lease and license application are still being coordinated in conjunction with the creation of the new license category, Village Staff has recommended that the Council's approval be subject to the following conditions: (a) successful completion of all application requirements, including the successful completion of the background check for all persons subject to a background check in regard to the requested license; (b) successful completion of the Police Department's premises inspection for compliance with the Liquor Ordinance's premises requirements for a Class E-2 License; and (c) successful completion of the build-out of the premises, including passing the final inspection for compliance with all applicable Village codes and issuance of a Certificate of Occupancy by the Community Development Department.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Village of Winnetka as follows:

**SECTION 1:** The Council hereby adopts the foregoing recitals as its findings of fact, as if fully set forth herein.

**SECTION 2:** A Class E-2 Liquor License is hereby authorized for issuance to The Winnetka Wine Shop, LLC, for the operation of a specialty beverage store at [Location to be inserted], subject to the following terms and conditions:

- A. All persons subject to a background check for the requested license shall submit to and pass the background check to be performed by the Winnetka Police Department as required by Chapter 5.09 of the Winnetka Village Code,.

B. The premises at [Location to be inserted] shall comply with the Village Code's eligibility requirements for a Class E-2 Liquor License, which shall be determined by the Police Department following an inspection of the completed premises.

C. The construction of the new premises shall be completed in accordance with all applicable Village codes, which shall be determined by the Community Development Department following a final inspection of the completed premises, and which shall be evidenced by the issuance of a final Certificate of Occupancy.

**SECTION 3:** The maximum number of licenses to be issued in each class of license established for the sale of alcoholic liquor under Chapter 5.09 of the Winnetka Village Code shall be as set forth in the table that is attached to this resolution as Exhibit A, which table is incorporated herein by reference and shall be appended to Chapter 5.09 of the Winnetka Village Code.

**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 be in full force and effect immediately upon its adoption.

**ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2009, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

**RESOLUTION NO. R-32-2009**  
**Exhibit A**

**Appendix to Winnetka Village Code Chapter 5.09**

**Authorized Liquor Licenses**

<b>Classification</b>	<b><u>Number</u></b>	<b><u>Licensee</u></b>
A	4	Kyoto Michael Lemongrass Marco Roma
A-1	7	Avli Restaurant, Inc. Corner Cooks J.P. McCarthy Little Lan's Little Ricky's Mirani's O'Neil's
B	2	Grand Food Center Lakeside Foods
C	Unlimited	Issued on an event-by-event basis
D	1	Acute Angle Wines
E	0	
E-1	0	
E-2	1	[New business – name to be inserted]
TV Rider	4	Avli Restaurant, Inc. J.P. McCarthy Little Ricky's Marco Roma
Packaged Meal Rider	2	Avli Restaurant, Inc. Marco Roma
Sidewalk Restaurant Rider	3	Corner Cooks Little Ricky's Mirani's
P	1	Winnetka Park District

## AGENDA REPORT

**SUBJECT:**           **Ordinance MC-9-2009**           **Amending Chapter 8.20 Regarding the  
Removal of Ash Trees with Emerald Ash  
Borer Infestations**

**PREPARED BY:**   Katherine S. Janega, Village Attorney

**DATE:**             September 29, 2009

**REFERENCE:**       September 15, 2009           Council Agenda, pp. 72 - 74

In 2007, in response to the spreading infestation of the emerald ash borer (EAB), the Village passed Ordinance MC-6-2007, adding Section 8.20.050 to the Village Code. Section 8.20.050 declares trees infested with the EAB to be a public nuisance. It also authorizes Village personnel to remove ash wood specimens for testing and identification, and to enter private property to enforce the EAB provisions of the Code.

To minimize the risk of expanding the EAB infestation, Section 8.20.050 originally prohibited the trimming and removal of ash trees during the EAB's flight season, between April 30 and September 1. The EAB infestation has nevertheless continued to spread, and the EAB quarantine area has expanded from isolated pockets to nearly the entire northern part of the State. As a result, Village Forester Jim Stier, other municipal foresters, representatives of the Illinois Department of Agriculture and arborists with various private tree care companies have all concluded that ash tree removals can be done any time of the year and that it's best to remove trees as soon as an EAB infestation is confirmed, to try to slow the spread of the infestation.

Ordinance MC-9-2009, introduced at the Council's September 15<sup>th</sup> meeting, was prepared at the request of the Village Forester. It amends Section 8.20.050 to allow ash tree removal at any time and incorporates State and federal regulations into all Village permits for ash tree removals, so that removal practices can be adjusted as conditions and regulations change, without having to wait for further Code amendments.

Pursuant to discussion at the time of introduction, two modifications have been made to Ordinance MC-9-2009. First, the second recital in the preamble has been amended because Village representatives are not required to be present for ash tree removals, though they have authority to do so, should circumstances warrant. Second, a new Section 4 has been added, to delete the reference to laboratory testing because, unlike Dutch elm disease which requires lab tests to confirm the presence of the fungus, EAB infestations are identified based on a physical inspection of the wood itself.

### **Recommendation:**

- 1) Consider amending Ordinance MC-9-2009, amending Chapter 8.20 of the Winnetka Village Code regarding the removal of ash trees infested by emerald ash borers.
- 2) Consider adopting, as amended, Ordinance MC-9-2009, amending Chapter 8.20 of the Winnetka Village Code regarding the removal of ash trees infested by emerald ash borers

**AN ORDINANCE  
AMENDING CHAPTER 8.20 OF THE WINNETKA VILLAGE CODE  
REGARDING THE REMOVAL OF ASH TREES  
WITH EMERALD ASH BORER INFESTATIONS**

**WHEREAS**, Section 8.20.050 of the Winnetka Village Code, was added to the Village Code pursuant to the enactment of Ordinance MC-6-2007 on May 1, 2007; and

**WHEREAS**, Section 8.20.050 declares trees infested with the emerald ash borer (EAB) to be a public nuisance, ~~requires a Village inspector to be present to inspect for signs of EAB infestation when any Ash tree is removed, authorizes the Director of Public Works to enter private property to enforce Section 8.20.050,~~ and prohibits the trimming and removal of Ash trees between April 30 and September 1, during the EAB's flight season; and

**WHEREAS**, Village staff has recommended that Section 8.20.050 be amended, because the EAB infestation has continued to spread, and experts in the field now recommend that Ash trees be removed as soon as an EAB infestation is discovered; and

**WHEREAS**, the Village of Winnetka ("Village") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, 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, including the power to regulate for the protection of the public health, safety and welfare; and

**WHEREAS**, the Council of the Village of Winnetka find and determine that amending Section 8.20.050 as recommended by Village staff is in the furtherance of the public health, safety and welfare and is a matter pertaining to the government and affairs of the Village.

**NOW, THEREFORE**, the Council of the Village of Winnetka do ordain:

**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 8.20.050, "Emerald Ash Borer," of Chapter 8.20, "Trees, Shrubs and Plants" of Title 8 of the Winnetka Village Code, "Health and Safety," is amended to provide as follows:

**Section 8.20.050 Emerald Ash Borer.**

A. Infested Trees a Nuisance. All species and varieties of ash trees (trees of the genus *Fraxinus*) that are infested with the emerald ash borer beetle (*Agrilus planipennis* Fairmaire) or that are symptomatic of infestation are declared to be a public nuisance.

**SECTION 3:** Subsection C of Section 8.20.050, “Emerald Ash Borer,” of Chapter 8.20, “Trees, Shrubs and Plants” of Title 8 of the Winnetka Village Code, “Health and Safety,” is amended to provide as follows:

C. Removal, Cutting, Trimming and Transport of Ash Trees and Ash Woods; Regulations; Restrictions.

1. Unlawful to Maintain a Nuisance; Duty of Owner. It is unlawful for any owner of any lot or land in the Village to permit or maintain on any such lot or land, any ash tree or ash wood that is a public nuisance as declared in this section and it shall be the duty of any such owner to promptly remove any such ash tree or ash wood and process it on site ~~to less than one inch in size.~~

2. Removal, Cutting, Trimming and Transport of Ash Trees and Ash Wood.

a. Removal permit required. It is unlawful for any person to remove any ash tree in the Village, regardless of its size, without first obtaining a tree removal permit from the Village. No such permit shall be issued to anyone other than a contractor that has signed a compliance agreement with the Illinois Department of Agriculture.

b. Application for tree removal permit. All applications for permits for the removal of ash trees shall be submitted to the Director by the owner of the property on which the subject tree is located. The application shall be submitted on forms to be provided by the Village.

c. ~~Limitations on Conditions for~~ removal, cutting, trimming, processing and transport. In addition to complying with this Code and any additional conditions stated in the removal permit, the removal, cutting, trimming and transport of ash trees and ash wood, and the processing of any wood cut or removed from an ash tree shall comply with all applicable State and federal statutes and regulations, which shall be incorporated by reference into all permits issued by the Village pursuant to this subsection C., is prohibited between April 30 and September 1 unless the ash wood is processed on site to less than 1 inch in size, or the ash material is stockpiled on site until after September 1.

**SECTION 4:** Subsection D of Section 8.20.050, “Emerald Ash Borer,” of Chapter 8.20, “Trees, Shrubs and Plants” of Title 8 of the Winnetka Village Code, “Health and Safety,” is amended to provide as follows:

D. Enforcement; Right of Entry of Village Officers. To carry out the purposes of this section and to implement the enforcement of this section, the Director is authorized and empowered to enter upon any lot or parcel of land in the Village at all reasonable hours to inspect any ash tree or ash wood situated on such parcel and to remove such ash tree or ash wood specimens ~~from any such tree~~ as are may be required ~~for the purposes of laboratory analysis or~~ to determine whether any ash tree or ash wood on the property is

infested with the emerald ash borer. It is unlawful for any person to interfere with the Director in carrying out the duties authorized in this section.

**SECTION 5:** 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 6:** This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

**PASSED** this 6<sup>th</sup> day of October, 2009, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this 6<sup>th</sup> day of October, 2009.

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

Introduced: September 15, 2009

Posted: September 16, 2009

Passed and Approved: October 6, 2009

Posted: \_\_\_\_\_

## **AGENDA REPORT**

**SUBJECT:**                               **Ordinance MC-13-2009 – Reducing the Speed Limit on Walden Road**

**PREPARED BY:**                       Katherine S. Janega, Village Attorney

**DATE:**                                   September 30, 2009

At its regular meeting on September 15, 2009, the Village Council considered a request that the Village install speed humps on Walden Road to prevent cars from speeding.

In response to the request, the Winnetka Police Department had placed a speed monitoring device to monitor traffic on Walden Road, and the Chief of Police reported that the traffic speeds on Walden Road did not warrant the installation of speed humps. The Chief of Police also relayed the comments and concerns of the Director of Public Works and the Fire Chief regarding the negative aspects of speed humps.

Although the Council concluded that speed humps should not be installed, its discussions raised a question about the 30 mile per hour speed limit on Walden Road and whether it could be reduced.

The Village has the authority to set speed limits on local roads and has enacted various speed regulations, which are set out in Chapter 10.20 of the Village Code. Ordinance MC-13-2009 amends Section 10.20.020 of Chapter 10.20 by adding Walden Road to the list of streets in the Village with specific, posted speed limits. The new speed limit on Walden Road would be 25 miles per hour, which is the same speed limit as on Provident Avenue. Provident is similar to Walden Road, in that it is also a narrow, winding street. Provident extends from Willow Road to the south side edge of Pine Street, in close proximity to Walden Road, which extends from the north edge of Pine to Vine Street.

**Recommendation:**

- 1) Consider introducing Ordinance MC-13-2009, amending Section 10.20.020 of the Winnetka Village Code to reduce the speed limit on Walden Road.

**ORDINANCE NO. MC-13-2009**

**AN ORDINANCE  
AMENDING SECTION 10.20.020 OF THE WINNETKA VILLAGE CODE  
TO REDUCE THE SPEED LIMIT ON WALDEN ROAD**

**WHEREAS**, Chapter 10.20 of the Winnetka Village Code establishes speed limits on various areas and specific streets within the Village of Winnetka; and

**WHEREAS**, Section 10.20.010(C) of the Winnetka Village Code establishes a general speed limit of 30 miles per hour on streets within the Village; and

**WHEREAS**, Walden Road is a narrow, winding public street in the Village of Winnetka; and

**WHEREAS**, the Council of the Village of Winnetka find and determine that, due to the narrow, winding nature of Walden Road, the general speed limit of 30 miles per hour is too high for safe travel on Walden Road and that the speed limit on Walden Road should therefore be reduced to 25 miles per hour; and

**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, with 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, including, but not limited to, the powers to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the Council of the Village of Winnetka find and determine that providing for the safe travel of vehicles on streets and roadways within the Village, including the setting of speed limits, is a matter pertaining to the government and affairs of the Village.

**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:** Section 10.20.020, “Speed limit, specific streets,” of Chapter 10.20 of Title 10 of the Winnetka Village Code, “Speed Limits,” is hereby amended to provide as follows:

**Section 10.20.020 Speed limit, specific streets.**

Pursuant to the authority vested in the Village Council by 625 ILCS 5/11-604, it is determined upon the basis of an engineering and traffic investigation of the Department of Public Works of the Village and the Police Department of the Village, that the speed permitted by Section 10.20.010 of this chapter and by 625 ILCS 5/11-604, upon the public streets and thoroughfares of the Village described in this section is more than is reasonable or sound with respect to conditions found to exist along such streets or thoroughfares, and the maximum speed limit along such streets or thoroughfares shall be as stated in this section, which speeds so declared shall be effective at the times specified in this section when signs giving notice of such speeds are erected along such streets or thoroughfares by the proper authorities of the Village:

<b>Name of Street</b>	<b>Zone</b>	<b>Maximum Speed Limit At All Times (Miles per Hour)</b>
Asbury Avenue	Gordon Terrace to Pine Tree Lane	25
Ash Street	Hibbard Road to Green Bay Road	25
Ash Street	Maple Street to Sheridan Road	25
Birch Street	Pine Street to Hill Road	25
Cherry Street	Hibbard Road to Green Bay Road	25
Chestnut Street	Hill Road to Spruce Street	25
Eldorado Street	Green Bay Road to Prospect Avenue	25
Elm Street	Hibbard Road to Green Bay Road (except school zone during school hours)	25
Foxdale Avenue	Humboldt Avenue to Tower Road	25
Fuller Lane	Winnetka Avenue to Sheridan Road	20
Gordon Terrace	Scott Avenue to Chatfield Road (except school zones during school hours)	25
Greenwood Avenue	Tower Road to north Village limits	25
Lincoln Avenue	Humboldt Avenue to Tower Road	25
Linden Street	Hill Road to Green Bay Road (except school zone during school hours)	25
Locust Street	Willow Road to Tower Road	25
Maple Street	Sheridan Road to Wilson Street	25
Oak Street	Hibbard Road to Linden Street (except school zone during school hours)	25
Oak Street	Green Bay Road to Sheridan Road	25
Pine Street	Green Bay Road to Hibbard Road	25

<b>Name of Street</b>	<b>Zone</b>	<b>Maximum Speed Limit At All Times (Miles per Hour)</b>
Prospect Avenue	Humboldt Avenue to Tower Road	25
Provident Avenue	Willow Road to Pine Street	25
Ridge Avenue	Hill Road to Green Bay Road (except school zone during school hours)	25
Rosewood Avenue	Mt. Pleasant Street to Vine Street	25
Scott Avenue	Grove Street to Linden Avenue	25
Spruce Street	Green Bay Road to Hibbard Road	25
Summit Street	Foxdale Avenue to Prospect Avenue	25
Sunset Road	Essex Road to Wilson Road	25
Vernon Avenue	Tower Road to north Village limits	25
<u>Walden Road</u>	<u>Pine Street to Vine Street</u>	<u>25</u>
Westmoor Road	Hibbard Road to Green Bay Road	25
Willow Road	Provident Avenue to Green Bay Road	25
Willow Road	Wilson Street to Sheridan Road	25
Wilson Street	Winnetka Avenue to Maple Street	25
Woodland Avenue	Winnetka Avenue to Willow Road (except school zones during school hours)	25

(Prior code § 41.13)

**SECTION 3:** 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 4:** This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

**PASSED** this \_\_\_ day of \_\_\_\_\_, 2009, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

## Agenda Report

**Subject: Curbside Recycling Contract**

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

Date: September 16, 2009

The Village's current 5-year curbside recycling contract with Veolia Environmental Services expired on September 30, 2009. The contract contains a provision that allows the Village and Veolia to continue the contract up to 60 days beyond the expiration date on a month-by-month basis, which the Village and Veolia have agreed to, to avoid cessation of service.

The Village explored three options on a going-forward basis to provide contractual curbside recycling service. First, the Village could have exercised its option to extend the contract for one additional year with Veolia. However, preliminary discussions with Veolia revealed that they would have requested a significant increase, well beyond the current contractual rate. Second, the Village could have sought competitive bids for a new contract; however the market is such that a new contractor likely would have bid well above the Village's current rate.

The Village also has a third, very attractive option as a member of the Solid Waste Agency of Northern Cook County (SWANCC). As part of SWANCC's contractual negotiations with Groot Industries to operate the Glenview transfer station, SWANCC has negotiated standard curbside recycling contractual terms available to its member municipalities. The key financial terms of the SWANCC standard contract compare very favorably to the Village's current contract with Veolia, as illustrated in the table below:

<b>Contractual Term</b>	<b>Current Veolia contract</b>	<b>SWANCC standard contract</b>
Current Unit Rate	\$4.32 per household per month (annual amount \$217,700+/-)	\$4.24 per household per month (annual amount \$213,700+/-)
Annual adjustment	Chicagoland urban CPI	Chicagoland Urban CPI with maximum increase of 4.5% and minimum increase of 2.5% <sup>1</sup>
Contract term	1 additional year (through September 2010)	4 years (through September 2013)
Material Revenue returned to Village	None	Revenue sharing formula with minimum of \$5.00 per ton (minimum annual return of \$15,500 based on historical tonnage)
Performance Bond	¼ of annual contract	\$50,000

<sup>1</sup> Provided that, if the CPI change is less than 1.25% the Village or SWANCC may require the Contractor to provide evidence to justify the minimum increase.

As can be seen from this table, the SWANCC standard contract is economically advantageous to the Village, to the tune of roughly \$19,500 per year compared to the current contract.

References. Groot Industries has provided the Village with a number of municipal references, from towns as small as Volo and Prairie Grove to towns as large as Skokie and Arlington Heights. Staff has evaluated several references for several similar-sized communities, including Lake Bluff and Glencoe, which both collect residential refuse with in-house forces like Winnetka does. These references have been uniformly positive, indicating that Groot's level of service is excellent. In addition, SWANCC has had positive experience with Groot as the operator of their transfer station facility in Glenview.

Service Provided. The proposed contract provides for once-per-week curbside collection of recyclable glass, metals, plastics #1-7, using 65-gallon wheeled carts – identical service to the current contract. Under the Veolia contract, all Village residents had their recycling collected on Wednesdays. As part of transitioning the contract to Groot, staff and Groot have been working towards synchronizing recycling and refuse collection to the same day, so that residents would only have a single service day to remember.

In summary, the recommended option of contracting with Groot Industries provides the Village with a financially advantageous contract that includes revenue sharing, a contractor that has demonstrated excellent customer service, and the option to synchronize recycling and refuse routes for increased convenience to the residents.

**Recommendation:**

Consider awarding a contract for curbside recycling services to Groot Industries pursuant to terms negotiated by SWANCC for its member municipalities.

## ARTICLES OF AGREEMENT

This agreement made and entered into on this ~~15<sup>th</sup>~~-6<sup>th</sup> day of ~~September~~October, 2009 AD by and between the VILLAGE OF WINNETKA, a Municipal Corporation, Cook County, Illinois, existing under and by virtue of the laws of the State of Illinois, party of the first part, hereinafter referred to as the “Village” and GROOT INDUSTRIES, INC., a [STATE][SMS1] corporation, party of the second part; hereinafter referred to as the “Contractor”.

WHEREAS, the Village finds that the best interests of the Village would be served by the employment of the Contractor to collect recyclable materials within the Village, and

WHEREAS, the Contractor is willing to render the service of collection of recyclable materials within the Village and transport them to recycling facilities in accordance with the terms and conditions hereinafter set forth,

NOW, THEREFORE, said Contractor, for and in consideration of the premises, agreements, and payments hereinafter mentioned to be made and performed by the Village, hereby covenants and agrees with said Village, as follows, to wit:

### ARTICLE I IDENTIFICATION OF CONTRACT DOCUMENTS

For the purpose of identification, the Contract Documents relating to this Contract are enumerated and described as follows and by reference are made a part of this Agreement:

- A. Contractor’s Price Proposal.
- ~~B.~~ B. Contractor’s Performance Bond.
- C. SWANCC Standard Curbside Recycling Terms, as applicable [Correct Title??]
- D. Village of Winnetka Code, as applicable.

### ARTICLE II DEFINITIONS

For purposes of this contract; the following definitions apply:

- A. Types of collectable materials. This contract shall consider as recyclable those materials which can be removed from the waste stream and recycled, including, but not limited to, newspapers, magazine & catalogs, envelopes, computer paper, junk mail, phone books, corrugated cardboard no larger than 2’X 2’ pieces, chipboard, towel cores, shoe boxes, clear & colored glass, bottles & jars, all metal food & beverage cans, aluminum foil & pie plates, and #1 through #7 plastics.
- B. Categories of collection services:

1. Single family residence (including two-family residences). Both detached and attached (townhouses) with a single collection point for each unit within 1 to 4 feet of the street curb or edge of pavement in the parkway in front of a residence. Residences with driveways served only by a through alley (defined as a continuous alley with access at both ends of a block face) may have their container collected from the alley rather than the curbside.
  2. Multifamily residence (not including any building which is part commercial and part residential). Either condominium, cooperative, or rental unit in an apartment or townhouse development where four or more units have a common collection point that is accessible by a collection truck.
- C. Collection containers. This contract contemplates using 35- or 65-gallon wheeled carts approved by the Village. At the Village's option, homeowners may be charged by the Village for the containers and the service.
1. Single-family residences.
    - a. The Village owns the containers to be used for this service..
    - b. The Contractor will be responsible for replacement of any containers damaged or lost due to negligence on the part of its personnel.
    - c. The Village will be responsible for the establishment of a system to replace containers when necessary for reasons not attributable to Contractor damage or loss. The contractor shall not be required to bear the cost of replacement carts beyond contractor damage.
    - d. Ownership of the containers shall remain with the Village.
  2. Multifamily residences. Prior to the commencement of service for each multifamily residence, the Village, Contractor, and owner(s) of said multifamily residence will agree on the type and location of the container or containers that will be used.

### ARTICLE III COMPLIANCE WITH VILLAGE CODE

Collection of recyclable materials by the Contractor shall conform to the provisions of Chapter 8.16 of the Winnetka Village Code and any rule or regulation issued pursuant thereto, all of which is made a part of this contract except as modified by this agreement. The Village retains the right to amend or otherwise modify the Village Code and to issue amended or modified rules and regulations during the term of this contract

### ARTICLE IV TERM OF CONTRACT

This contract shall become effective as of October 1, 2009 and shall continue in effect for a period of Five years, to and including September 30, 2014. This contract may be extended for an additional period of one (1) year upon the mutual consent of the Village and Contractor. To

exercise this option, the Village must provide the Contractor with written notice of same no less than 60 days prior to the expiration of the contract.

- A. The commencement date of services to be provided under this contract shall be as mutually agreed upon by the two parties.
- B. If the contractor becomes unable or unwilling to perform the service as specified herein, or fails to comply with all contractual requirements herein, the Village may, at its option, cancel the contract with thirty (30) days written notice to the contractor. In the event of such a cancellation, the Village shall retain the right to collect against the Contractor's performance bond because of the failure of the contractor to perform the service outlined herein.<sup>[SMS2]</sup>
- C. If necessary to avoid cessation of service at the expiration of this contract, the contract may be extended for a period of up to sixty (60) days past the expiration date at a rate equal to one hundred ten percent (110%) of the rates being charged at the expiration of the contract, upon mutual consent of the Village and the Contractor.

#### ARTICLE V EXCLUSIVE RIGHTS OF THE CONTRACTOR

It is expressly understood that the rights herein granted to the Contractor are exclusive and that the Village will not enter into any additional agreements or contracts during the term of this agreement that would bestow these same rights upon other contractors, except as outlined herein. Nothing in this agreement shall be construed as preventing any commercial establishment, multi-family or single-family residence in the Village from collecting, transporting or disposing of its own recyclables at its own expense during the term of the agreement, in accordance with the ordinances of the Village.

#### ARTICLE VI RATES AND CHARGES

The Village shall pay the Contractor for the service provided for herein in accordance with the rates specified in the Schedule A schedule of rates contained in the SWANCC Standard Curbside Recycling Terms references in Article I.C, above, ~~which is the Schedule of Payments, from the Proposal Form submitted with the Contractor's original proposal and is attached to this Agreement.~~

- A. A determination of the number of collections to be provided will be made as of May 1 of each year of the agreement beginning in 2010. The annual sum to be paid to the contractor will be determined using the current unit rate and the determination of the number of services.
- B. The Village will inform the contractor of any changes in the type or location of service as necessary. Minor changes will not be reflected as they occur, but rather will be reflected in the annual determination of the number of collections to be provided. Major changes, defined as being over twenty (20) collections, will be made by the Village after thirty days advance notice to the contractor, and will be reflected in the monthly billing.
- C. The Village and the Contractor agree that the rates charged per stop will be adjusted as of January 1 ~~December~~ of each year by using the percentage change in the Chicago Urban Consumer Price Index from December of the previous year compared to the December prior ~~one (1) year prior, and such changes will be reflected in Schedule A~~

and will correspond with the agreement with the Solid Waste Agency of Northern Cook County. ~~All such calculations shall be made to the nearest one tenth of a percent (0.1%).~~

## ARTICLE VII BILLING AND PAYMENTS

On or about the first day of each month, the Contractor shall submit to the Village an invoice for service performed under the agreement for the current month. Such invoice shall be equal to one twelfth (1/12) the annual amount as determined in ~~Schedule A of this agreement, less any credit due to the Village for non-collections, computed as specified in Article XII B.~~

- A. Each invoice shall be accompanied by a detailed accounting of all materials collected during the preceding month. This report shall be submitted on a form approved by the Village and shall include the total tons collected and the approximate number of residences participating.
- B. Each invoice shall be processed for payment in keeping with applicable provisions of the Illinois Prompt Payment Act.

## ARTICLE VIII LIENS

It is understood and agreed that, in the event the Contractor fails to pay any or all sums of money due its employees for work performed in relation with this contract, or if at any time there is evidence of a lien or claim for which, if established, the Village might become liable, and which is chargeable to the Contractor, the Village is authorized to retain out of any payment due or to become due to the Contractor such sums as may be required to indemnify the Village against such lien or claim.

- A. The Contractor agrees to waive and release any and all liens or rights of lien against the premises or funds of the Village on account of labor, materials or equipment employed by the Contractor our account of the Village.
- B. Prior to being entitled to any payments under this contract, the Contractor shall supply satisfactory evidence that there are no liens or encumbrances on the premises or funds of the Village by reason of materials, equipment furnished, or labor employed in the performance of the service outlined herein. The Contractor agrees to be liable for the payment of any sum in liquidation by reason of any lien which may be placed upon the premises or funds of the Village by reason of the work, materials, or equipment furnished or ordered by the Contractor. The Contractor further agrees that in the case that, if any costs to the Village arise out of any such claims or liens, the Contractor shall be liable to the Village for such costs and shall reimburse the Village for any such costs it incurs, including but not limited to legal fees and defense costs.

ARTICLE IX  
CONTRACTOR RESPONSIBILITY

The Contractor shall be held responsible in all operations which arise from this contract to obey and comply with any and all applicable federal, state, local, and general ordinances and laws governing the Contractor, its agents, officers, servants and its employees now or hereafter enacted.

ARTICLE X  
INSURANCE AND INDEMNIFICATION

The Contractor shall not commence any work under this contract until the Contractor has obtained all insurance required herein and the Village has approved said insurance.

- C. The Contractor must have the following insurance coverage in force and effect at all times while performing work under this contract.
- 1 Workers' Compensation Coverage: The Contractor shall furnish to the Village satisfactory proof that they have taken out, for the period covered by the contract, full worker's compensation insurance of statutory limits for all employees whom the contractor may employ in carrying out the work contemplated under this agreement. In addition, the Contractor shall furnish to the Village satisfactory proof that the insurance includes coverage for occupational diseases. Employer's liability should also be provided for both bodily injury and disease that may rise out of the employment of any persons involved in work under this agreement.
  2. Automobile and General Liability Coverage: The Contractor shall maintain throughout the term of this contract Automobile (both owned and non-owned) and General Liability insurance acceptable to the Village, with limits of not less than \$1 million for bodily injury, including death, for each occurrence, and \$2 million in aggregate, and property damage insurance of not less than \$1 million per occurrence and \$2 million in aggregate. Comprehensive General Liability insurance coverage shall include General Coverage, Underground Explosion and Collapse, Broad Form Property Damage, Contractual, Independent Contractor's coverage.
  3. Umbrella Coverage: Umbrella Liability Insurance is to be written with a minimum liability limit of \$5 million, and coverage is to be subject to the following:

"It is hereby understood and agreed that, despite anything to the contrary where underlying insurance, as described in the schedule of underlying insurance attached to the policy, provides greater protection or indemnity to the insurance than the terms and conditions of the policy, this insurance shall pay on behalf of the insured the same terms, conditions, and coverages which apply to the basic underlying insurance. Where no such broader underlying insurance exists, this policy shall pay on behalf of the insured upon terms and conditions and limitations of the carrier's umbrella excess policy."
- B. All insurance shall be provided by companies approved by the Village and authorized to do business in the State of Illinois.

- C. Prior to beginning work under this agreement, the Contractor shall provide the Village with proof of insurance. Such proof shall consist of certificates of insurance executed by the respective insurance companies in a form acceptable to the Village.
- D. The certificates of insurance filed with the Village shall include verification that each insurance policy bears an endorsement precluding cancellation, reduction or material change in coverage without giving the Village at least thirty (30) days prior notice in writing. Such change shall only take place upon Village consent.
- E. The Contractor shall indemnify and save harmless the Village, its officers, agents, servants and employees, from and against any and all suits, actions, proceedings, claims, charges, losses, damages, costs, expense or liability, including legal fees and court costs, arising in any way from negligent and/or willful and wanton acts or omissions of the Contractor, its agents, officers servants or employees in the performance of this contract. To secure this obligation, the Contractor's insurance shall include contractual liability coverage, and the Village shall be named as an additional insured party to the extent of the Contractor's negligence on all policies other than Workers' Compensation coverage. The Contractor shall not be held liable for any suits, actions, proceedings, claims, charges, damages, costs and legal fees and expenses resulting from a willful negligent act or omission by the Village, its officers, servants, agents or employees.

ARTICLE XI  
GENERAL CONDITIONS

- A. Frequency of Collection. Collections shall be performed on Monday, Tuesday, Thursday, and Friday of each week, at each location included in the contract, throughout the year. The collection schedule is shown in Appendix \*\*, and matches the household refuse collection schedule.
- B. Collection Schedule. In weeks containing the holidays New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, weekly collection on the day of the holiday and on following days will be delayed by one day. Holidays which fall on a Sunday will be observed the following Monday with services delayed for one day the remainder of the week. During periods of severe weather that make collection impossible on a given day, the collection schedule may be adjusted as required, with the written permission of the Director or Public Works, to provide the service in this contract. After the schedule, including holiday adjustments, is approved, any proposed changes must be submitted in writing to the Director of Public Works for approval no less than ninety (90) days in advance of the effective date of the proposed changes. Collection schedules for multi-family units will be required as described above after collection points and methods for each unit to be added have been agreed upon as specified in Article II C.2. of this agreement.
- C. Work Force. All work under this agreement shall be carried out in a safe, efficient, and workmanlike manner. The workforce employed shall be neat, professional, and courteous, and shall be adequate to accomplish all tasks outlined in this agreement safely in adverse weather conditions, regardless of equipment failures. The Contractor shall comply with all applicable laws, including FEPC, OSHA, and minimum wage laws.
- D. Collection Hours. Collection of recyclable material shall be limited to the hours between 7:00 am and 7:00 p.m. No collections are to be made on Sundays or those Holidays specified above, except with specific approval of the Director of Public Works. Saturday collections may only occur in during holiday weeks as described in B. above.
- E. Equipment. The Contractor shall maintain in good working order and in a clean and sanitary condition, sufficient equipment (including reserve equipment) to collect recyclables in a safe

and efficient manner. All collection equipment shall be a modern enclosed design. The equipment shall be clearly marked as a vehicle used for recycling and shall bear the name of the contractor. All equipment used for this project shall be subject to Village approval. No vehicle used in the performance of this contract shall have a gross vehicle weight rating (GVWR) of greater than 55,000 pounds.

- F. Payment of Expenses. The contractor shall be solely responsible for paying the cost of performing its obligations under this agreement, including, all salaries of all employees engaged in connection with the performance of this contract, and all other expenses including, but not limited to, fuel, insurance premiums, equipment purchase, and maintenance and administration.
- G. Village Facilities. At no additional cost to the Village, the contractor shall provide collection of recyclables on a once-per-week basis at the following Village Facilities:

1. Village Hall	510 Green Bay Road
2. Public Safety Building	410-428 Green Bay Road
3. Municipal Water Plant	Tower Road Pier
4. Municipal Electric Plant	Tower Road Pier
5. Public Works Garage	1390 Willow Road
6. Water & Electric Garage	1390 Willow Road

- H. Hardship Collection. If, in the determination of the Village, circumstances relating to a resident's physical or medical condition prevent use of a 35-gallon or 65-gallon container for recycling collection, the Contractor shall make recycling collections using containers previously acceptable under the Village's recycling contract, including bins. The Contractor shall not be responsible for providing or replacing such containers. The Village will take appropriate steps to determine genuine physical or medical hardship and shall provide the Contractor with a list of approved locations where such hardship collections are to be made.

## ARTICLE XII TELEPHONE SERVICE AND COMPLAINTS

The Contractor shall maintain a telephone where service requests and complaints can be directed on all business days between the hours of 8:00 am and 4:30 p.m. A representative of the contractor shall be available for any service issues on the day of collection. The representative shall have a mobile telephone and the number shall be provided to the Village staff for prompt notification and response. All service calls or complaints shall receive prompt and courteous service and the Contractor shall provide written response to the Superintendent of Operations, or such other Village Employee as may be designated by the Director of Public Works, as to the action taken on each complaint or service request.

~~Missed Stops.~~ If a complaint is received about the failure of the Contractor to make a regularly scheduled collection, and it is verified that the failure is not the fault of the resident, the Contractor shall provide a special collection within one working day of receipt of the complaint.

## ARTICLE XIII PERFORMANCE BOND

Within fifteen (15) days of execution of this contract, the Contractor shall provide a performance bond in the penal sum of \$50,000.00, conditioned upon faithful performance of the Contractor of the obligations under this contract. The bond shall indemnify the Village against loss resulting from breach or failure of performance of this contract by the Contractor. The surety on said bond must be approved by the Village. The bond may be for a one (1) year period, but must be

renewed at least one hundred twenty (120) days prior to the expiration date to insure that it is in force for the entire life of the contract.

#### ARTICLE XIV ASSIGNABILITY OF CONTRACT

This contract is not assignable by the Contractor without the prior written consent of the Village, which consent shall not be unreasonably withheld, but shall be binding upon successors and assigns of the Contractor subject to the restrictions herein.

#### ARTICLE XV BANKRUPTCY

In the event the Contractor shall be judged to be bankrupt, either by voluntary or involuntary proceedings, then this contract shall immediately terminate, and this contract shall not be considered or treated as an asset of the Contractor in any bankruptcy proceeding. If the Contractor becomes insolvent or fails to meet its financial obligations, then this contract may be terminated at the sole option of the Village upon fifteen (15) days written notice to the Contractor. This contract is not assignable by the Contractor except as provided above and shall not be or come under the control of creditors or trustees of the Contractor in cases of bankruptcy or insolvency of the Contractor, but shall be subject to termination as provided herein.

#### ARTICLE XVI VERBAL AGREEMENTS

This contract represents the entire agreement between the parties, and this contract supersedes all prior negotiations and verbal agreements of the parties. No verbal agreements or conversations with any officer, agent or employee of the Village shall affect or modify any of the terms of this agreement.

#### ARTICLE XVII SUBCONTRACTS

The Contractor shall not sublet any part of this work without prior written consent of the Village, and any such subcontract shall not relieve the Contractor of the responsibilities under the terms of this contract.

#### ARTICLE XVIII COMPLIANCE WITH LAWS

The Contractor will comply with all applicable State of Illinois laws and regulations in performance of this contract. In executing this contract, the Contractor certifies that he is not barred from bidding on the contract as a result of a violation of either Section 33E-3 or 33E-4 of the Illinois Criminal Code of 1961 as amended by Public Act 85-1295 prohibiting "Bid-rigging" or "Bid-rotating". The Contractor agrees that in the performance of work and services under this contract, the Contractor will qualify under and comply with any and all federal, state and local laws and regulations now in effect, or hereafter enacted during the term of this contract which are applicable to the Contractor, its employees, agents or subcontractors, if any.

Contractor reserves the right to negotiate a price adjustment for future collection services due to any change of any nature (by modification, addition or deletion of any provisions) in any Federal, State or local environmental or waste disposal law, ordinance or regulation, and such event causes, or will cause, an increase in the Contractor's future costs of performing its

obligation under this agreement. The parties shall have (60) days from the date of the Contractor's written notice to the Village in which to agree mutually on a price adjustment within said (60) day period, then at the end of said period, the price adjustment hereunder shall be submitted to mediation, before the American Arbitration Association in Chicago, Illinois.<sup>[SMS3]</sup>

ARTICLE XIX  
COORDINATION OF CONTRACT

The Contractor will coordinate the recycling collections with regular refuse collection and other operations of the Village so that such activities do not interfere with each other.

ARTICLE XX  
MODIFICATION TO CONTRACT

This contract may be amended or modified at any time, for any reason, by the mutual agreement of the parties, provided that any such amendment or modification shall be in writing and shall be executed by the parties hereto or by their duly authorized representatives.

ARTICLE XXI  
RIGHTS AND REMEDIES CUMULATIVE

All rights and remedies of the Village herein enumerated shall be cumulative and none shall exclude any other rights or remedies allowed by law.

THIS AGREEMENT shall inure to and be binding upon the heirs, administrators, executors, successors and assigns of the parties hereto.

IN WITNESS WHEREOF the Village has caused this instrument to be executed in duplicate original counterparts by its President and attested by its Clerk pursuant to authority granted by the President and Board of Trustees of the Village, and the Contractor has affirmed its signature hereto on the day and year specified above.

ATTEST: VILLAGE OF WINNETKA, ILLINOIS

By \_\_\_\_\_

Its President

\_\_\_\_\_

Its Clerk

ATTEST: GROOT INDUSTRIES, INC.

\_\_\_\_\_

Its President

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Its Chief Executive Officer  
Approved by the President and Board of Trustees of the Village of Winnetka, Illinois on [DATE].

## AGENDA REPORT

Subject:       **Stack Repairs, Winnetka Electric Plant**

Prepared by:   Brian Keys, Director Water & Electric

Ref.:           Budget Presentation, February 5, 2009

Date:           September 30, 2009

The Water & Electric Department requested bids (Bid #09-018) for repairs to the exhaust stack at the electric plant. The scope of work was previously identified through an inspection performed in 2006. The bid scope included railing repair, painting, expansion joint repair, and gunite replacement. This work was based on a lump sum prices for the identified work. Contractors were also asked to provide a unit price for additional square footages of gunite repair.

Ten companies requested bids and five submitted sealed bids for the work scope. Results for the bid totals are shown below.

Gerard Chimney Company	\$53,715
Oak Park Chimney Corp.	\$89,650
Hamon Custodis Inc.	\$150,275
R&P Industrial Chimney Co., Inc.	\$198,339
TMI Coatings, Inc.	\$197,800

Since the low bidder, Gerard Chimney Company, is an unknown entity to the Village Staff, a review of the firm was undertaken which included contacting references, internet searches and checking with the Better Business Bureau. Gerard Chimney provided multiple references. All references reported that quality work was performed by the contractor. The unfavorable comments were related to job site cleanliness and a billing discrepancy. One customer has repeatedly used the contractor for stack maintenance.

As there was such a large difference in the bid amounts, Gerard Chimney was questioned about their bid. Gerard has responded that they will stand behind their bid for that work. We, therefore, recommend that their bid be accepted.

There is \$110,000 in the FYE 2010 budget (account 50-41-540-226) for stack repairs at the electric plant.

**Recommendation:**   Consider authorizing the Village Manager to issue a purchase order to Gerard Chimney Company in the amount of \$53,715 for stack repairs at the electric plant.

**Village of Winnetka  
Stack Repair  
Bid No. 09-018**

**Summary of Work**

- Item No. 1: Railing repair/replacement and repaint
- Item No. 2: Paint repairs
- Item No. 3: Cap replacement and repaint
- Item No. 4: Weld replacement and repaint
- Item No. 5: Expansion joint cover and repair
- Item No. 6: Gunite repair
- Item No. 7: Additional gunite repair (if approved by owner)
- Item No. 8: Additional painting (if approved by owner)

**Bid Tabulation**

	<b>Gerard Chimney Company</b>	<b>Oak Park Chimney Corporation</b>	<b>Hamon Custodis Inc.</b>	<b>R&amp;P Industrial Chimney Co. Inc.</b>	<b>TMI Coatings, Inc.</b>
Item No. 1	\$3,285	\$2,120	\$8,689	\$4,484	\$2,000
Item No. 2	\$16,070	\$24,210	\$39,121	\$71,505	\$133,800
Item No. 3	\$460	\$1,150	\$120	\$3,535	\$1,000
Item No. 4	\$1,681	\$2,460	\$910	\$4,337	\$1,500
Item No. 5	\$2,015	\$3,120	\$6,905	\$11,880	\$1,500
Item No. 6	\$30,204	\$56,590	\$94,530	\$102,598	\$58,000
<b>Total Cost</b>	<b>\$53,715</b>	<b>\$89,650</b>	<b>\$150,275</b>	<b>\$198,339</b>	<b>\$197,800</b>
Item 7: Unit Cost for Gunite Repair beyond Base Quantity (per cubic ft.)	\$24	\$48	\$116	\$102.60	\$90
Item 8: Unit Cost for Painting beyond Base Quantity (per sq. ft.)	\$15	\$24	\$76	\$71.51	\$90
Days to complete	5	7-8	11	15	30

## AGENDA REPORT

Subject: Water Plant Intake Maintenance Work

Prepared by: Brian Keys, Director Water & Electric  
 Rich Ciesla, Assistant Director Water & Electric

Ref: Budget Presentation, February 5, 2009

Date: September 30, 2009

Periodic dive inspections and stone work are required for the Water Plant’s intake pipe. The Water Plant intake is 20” in diameter and extends 3,000 feet along the bottom of the lake. The stone and sand around the intake are displaced by wave action which requires placement of additional stone to protect and support the pipe.

A request for sealed bid was issued for the underwater video inspection and stone work required on the 20” intake. The bid notice was published in the Pioneer Press and sent to nine firms. Three firms submitted sealed bids and three firms notified us that they would not submit a bid. These are summarized as follows:

Project Activity	Edward E. Gillen Company	Great Lakes Dock & Material.	Continental Construction
Provide labor and equipment to video and dive inspect the exterior of the 3,000 ft., 20 inch intake and place 370 tons of limestone over and around exposed pipe	\$67,106	\$178,969	\$258,000
Clean intake strainer at the end of the pipe.	\$7,550	\$8,400	\$19,000
<b>Total:</b>	<b>\$74,656</b>	\$187,369	\$277,000

The Edward Gillen Company is the least costly bidder on all work activities. Staff is recommending that the Gillen Company be awarded the video inspection, placing of limestone, and cleaning of the strainer. The Gillen Company has previously performed the intake maintenance work for the Village and has arrangements with Waukegan Harbor.

The Water Plant has \$71,000 budgeted (account #52-65-640-322) for intake maintenance.

**Recommendation:** Consider authorizing the Village Manager to issue a purchase order to the Edward E. Gillen Company in an amount of \$74,656.

## Agenda Report

**Subject:** State of Illinois Emergency Repair Funding – Green Bay Road

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

Date: September 30, 2009

In May of 2009, staff submitted a request for State of Illinois Emergency Repair Funds (ERF) to resurface portions of Green Bay Road. The ERP is a program funded by the State of Illinois Capital Program recently signed by Gov. Quinn. Recently staff was notified that Winnetka has been allocated \$730,000 for this program – \$300,000 through Rep. Hamos’ office, and an additional \$430,000 through Sen. Schoenberg’s office. This is slightly less than what the Village requested, but still a sufficient amount to resurface a large stretch of Green Bay Road.

Staff and IDOT officials met on September 14 to discuss the implementation details of this program. Key points for the Village:

- There is no specific date for either commencement or completion of projects under this funding, unlike the earlier Federal stimulus package that required projects to be “shovel-ready”, so work can take place next construction season.
- According to local IDOT representatives, the funding is available through the State’s Road Construction Fund, and will be reimbursed to the Village “within 2 weeks” of invoicing. The Village may invoice IDOT for 95% of the low-bid amount upon award of a construction contract, and the balance upon completion of the project.
- Projects will be administered using the same standards as Motor Fuel Tax funds, meaning that the Village has quite a bit of flexibility in determining how the project will be implemented.

Staff has evaluated three broad strategies for using these funds to improve the condition of Green Bay Road.

1. **Resurface all four lanes, with minimal curb repair and pavement base repair, for as long a stretch as the funding will allow.** The \$730,000 funding would allow the Village to resurface all four lanes of Green Bay Road from Tower Road to Pine Street, assuming 20% base repair, for approximately \$736,000 (roughly matching our funding); with no base repair, the limits could be extended to Elm Street; with less than 20% base repair the limits could extend somewhere between Spruce Street and Elm Street, without exceeding our funding. This project would result in a fairly short-term extension of pavement life, say 5 to 10 years, for a heavily traveled and deteriorated stretch of Green Bay Road.

2. **Resurface the outer two lanes, with significant curb repair and pavement base repair, for as long a stretch as the funding will allow.** Assuming 25% curb repair and 20% base repair, the limits could extend from Tower Road to somewhere between Oak Street and Elm Street. Increasing the amount of curb repair, the limits may only extend somewhere between Spruce Street and Elm Street. This project would extend the life of the outer lanes, where most of the deterioration is occurring, by perhaps 10 years, and would replace significant portions of deteriorated curb, but would leave deteriorated portions of the center lanes untouched.
3. **New curb, pavement base repair, and complete resurfacing in the Hubbard Woods business district, and negotiate with IDOT towards a jurisdictional transfer of this portion of Green Bay Road.** Assuming 20% Base Repair, the estimated cost to reconstruct Green Bay Road from Scott to Tower Road, would be approximately \$610,000. Increasing the amount of base repair would easily escalate the costs to match the funding amount. This project would provide a longer life (10 to 15 years) improvement for Green Bay Road through Hubbard Woods and, if IDOT agrees to negotiations for a jurisdictional transfer, would allow the Village flexibility for future streetscape and lighting improvements in the Hubbard Woods business district.

IDOT has programmed a project to resurface Green Bay Road through Winnetka and Kenilworth in their 5-year Highway Improvement Program, for an undetermined year between 2011 and 2015 (years 2-5 of the Program). This project has been similarly listed in years 2-5 of IDOT's last five 5-year Programs, so it is unclear as to when and if this project might occur. Use of these State funds on Green Bay Road will serve to improve portions of Green Bay Road in a more timely fashion than waiting for IDOT.

Option 1 would resurface the worst portion of Green Bay Road, from Tower Road on the north to somewhere between Pine Street and Elm Street on the south, depending on the amount of curb and pavement base repair needed, and would provide a 5 to 10 year period where a sound pavement surface would be present. It is conceivable that if IDOT proceeds with their proposed project within the next few years, they may skip over this portion of Green Bay Road rather than resurface it again.

Option 2 would resurface the outer lanes of Green Bay Road, from Tower Road on the north to somewhere between Spruce Street and Elm Street on the south, depending on the amount of curb and pavement base repair needed. This project would provide a longer pavement life for the outer two lanes of this portion of Green Bay Road, but would essentially leave the inner two lanes untouched until IDOT's future project is completed.

Option 3 proposes that the Village accept jurisdiction of and future maintenance responsibility for Green Bay Road between Tower Road and Scott Avenue. Under a jurisdictional transfer, the Village would be responsible for all future maintenance and repair of Green Bay Road in the Hubbard woods business district, however the Village

would gain the benefit of being able to complete improvements in the Green Bay Road right-of-way without obtaining IDOT permits, and without needing to meet IDOT standards, particularly pertaining to roadway lighting. This could provide the Village with significant flexibility in performing future streetscape improvements in the Hubbard Woods business district.

If the Village Council is of the opinion that the long-term strategic benefits of having the Village control its destiny on Green Bay Road through Hubbard Woods outweigh the long-term costs of forever maintaining Green Bay Road through Hubbard Woods, then staff recommends that the Village proceed along the lines of Option 3 and approach IDOT to begin negotiating a jurisdictional transfer.

If the Village Council is not of this opinion, then staff recommends that the Village proceed with Option 2, resurfacing the outer lanes of Green Bay Road south of Tower Road as far as funding will allow, with an eye towards construction during the 2010 construction season. This would address the worst areas of the pavement, will provide for replacement of curb and gutter where needed, and would minimize the risk of IDOT skipping a portion of the roadway if and when their resurfacing project comes to fruition.

**Recommendation:**

Provide policy direction.

## Agenda Report

**Subject:**                    **Bid 09-021: 2009 Holiday Lighting**

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

Date:                         October 1, 2009

On October 1, 2009, the Village opened sealed bids for holiday lighting of public trees throughout the Village. As in past years, the program includes lighting public trees in the Village's 3 business districts, the Village Yards, and park district properties in the Indian Hill, Elm Street, and Hubbard Woods business districts. This year, in response to the urging of the business community, the Village has expanded the number of trees to be lit in the Hubbard Woods business district. Under prior years' programs it was only possible to light 10 trees, given the limited number of electric receptacles present. This year, the Water and Electric Department has provided additional fixture locations, allowing the Village to decorate 39 trees. The attached GIS map shows the location of the previously lit trees (in blue) and the trees to be added to the lighting program (in red).

The Village received 2 bids, detailed below:

<b>Item</b>	<b>The Care of Trees</b>	<b>Landscape Concepts Mgmt.</b>
Elm Street Business District	\$32,889.00	\$31,537.50
Hubbard Woods Bus. Dist.	\$2,914.00	\$12,712.15
Indian Hill Business District	\$1,750.00	\$1,721.25
Village Yards	\$832.00	\$2,019.00
<b>Total Bid</b>	<b>\$38,385.00</b>	<b>\$47,989.90</b>

The lowest bid was submitted by The Care of Trees, a qualified and competent contractor. This vendor has successfully completed the Holiday Lighting project for the Village in the past.

**Budget Information.**

The FY 2008-09 budget contains \$60,000 for this project in account 10-30-530-142.

**Recommendation:**

Consider awarding bid 08-023, 2008 Holiday Lighting, to The Care of Trees for \$38,385.00.

# Hubbard Woods Holiday Lighting

