



***CLERK TREASURER DEVONA REQUESTS PERMISSION TO ATTEND NYS EFC MWBE PRESENTATION***

A motion was made by Trustee Champagne and seconded by Trustee Abbott approving request for Clerk Treasurer DeVona to attend the NYS EFC MWBE presentation, December 11, 2013, in Syracuse at no cost. All in favor. Motion carried.

**MINOA FARMS**

***AMENDMENT TO SPECIFIC CONDITION OF NOVEMBER 3, 2008 RESOLUTION REGARDING TREE PLANTING***

The following resolution as drafted and proposed by the Village Attorney, was moved, seconded and adopted:

**WHEREAS**, by letter/application dated August 24, 2007 on behalf of Elliot Lasky and Minoa Farms Development Company, LLC, developer of the Minoa Farms Subdivision (“Developer”), the law firm of Shulman, Curtin, Grundner & Regan, PC, by C. Daniel Shulman, Esq. applied to the Village of Minoa Board of Trustees for approval of an amended Preliminary Plat of the Minoa Farms Subdivision (“Development”), and an amendment to the Village Zoning Code and Map to permit such amendment to the Preliminary Plat; and

**WHEREAS**, the Developer having requested that the Village Board approve the amended Preliminary Plat in order to permit the development of smaller lots in certain areas of the Development as more specifically shown in the submission of attorney Shulman of August 24, 2007, the same being a portion of the previously approved Preliminary Plat of the Minoa Farms Subdivision aforementioned; and

**WHEREAS**, in order to consider same the Village Board having considered and subsequently adopted Local Law No. 1 for 2008 relating to the amendment of Chapter 160 of the Village of Minoa municipal code entitled “Zoning,” to provide for the creation of a new zoning district entitled “Residential B-1” and for an amended Zoning Map and to amend the zoning classification of a certain parcel classified in the Zoning Map of the Village of Minoa dated May 2002 on January 21, 2008; and

**WHEREAS**, by resolution adopted November 3, 2008, (“November 3, 2008 Resolution”) the Village Board approved the (Amended) Preliminary Plat – Minoa Farms of D.W. Hannig, L.S., P.C. dated May 16, 2000 and last revised August 13, 2008 (hereinafter the “Amended Preliminary Plat”), subject to and strictly contingent upon the specific conditions and/or requirements as set forth in the November 3, 2008 Resolution; and

**WHEREAS**, the Village Board having been made aware in the Spring of 2013 that a specific condition of the November 3, 2008 Resolution, i.e. the requirement for the installation on each lot of two (2) tree plantings of 2 ½” caliper in trunk width and three (3) tree plantings on corner lots not later than eight (8) months following lot acquisition and occupation of a dwelling thereon, had not been complied with; and

**WHEREAS**, the Village Board having conferenced such noncompliance at the Village Board’s regular meeting on August 12, 2013, with a representative of Ryan Homes Inc., the contract vendee builder of the bulk of lots in the development (“Ryan”) and it having been questioned by Ryan as to whether such plantings should be required, and if so whether this was their, the Developer or homeowner’s responsibility; and

**WHEREAS**, it being further discussed that the reduced acreage of the subject lots might only warrant one rather than two tree plantings, the Village Board indicating it may consider same upon review of the prior approvals and subdivision map and in particular if Ryan was to affirm they would be responsible for same as a final resolution of the issue; and

**WHEREAS**, the Village Board having completed its review of the prior approvals and map and desiring to formally consider Ryan’s offer in full settlement; and

**NOW THEREFORE, BE IT RESOLVED**, the Village Board of Trustees of the Village of Minoa acting as Lead Agency hereby reaffirms its previous Negative Declaration of Significance relative to its approval of the Amended Preliminary Plat in order to permit the development of the smaller lots aforementioned in certain areas of the Development; and it is further

**RESOLVED**, in light of the reduced lot size and thus less acreage available for lawn plantings, and further, the Village Board intending that same not be installed (planted) within the Village right-of-way, the Village Board hereby amends its approval as set forth in the November 3, 2008 Resolution so as to add to the provisions of paragraph (j) the following language:

“.....the foregoing notwithstanding, such original requirement of two tree plantings within the street right-of-way for each lot is hereby further modified such that the Developer, and if not completed by Developer prior to transfer of title or possession (for commencement of construction) to a home builder, then the home builder shall be required to install, or to place (at the time of closing with a purchaser-homeowner) sufficient security with a purchaser-homeowner or its lender, for the installation of one (1) tree planting of 2 ½” caliper in trunk and two (2) tree planting on corner lots, such installation to take place not later than eight (8) months following completion of construction of a dwelling thereon. Same shall not be located within the public street right-of-way. These provisions shall not become effective until amended protective covenants for the foregoing parts/sections of the Development including such obligation shall be recorded, same to provide that such covenants are enforceable by any owner of a lot in such part/section of the Development and by the Village. The homeowner acquiring title after the recording date of amended covenants based upon this resolution shall be unilaterally responsible for the installation of same regardless of whether having received security from the homebuilder at time of closing. This resolution is intended to modify the provisions of the November 3, 2008 Resolution and any covenants of record based thereon to this limited effect, however to be effective: (i) only from the recording date of an amendment to such covenants reflecting the provisions hereof, and (ii) on those lots in the Development on part(s)/section(s) thereof

affected by the November 3, 2008 Resolution that have been zoned Residential B-1, have homes thereon and have had no trees installed in compliance with the November 3, 2008 Resolution or otherwise as of the date of adoption of this resolution. Such amended covenants shall not be effective unless prior to recording, same are signed and dated as "approved by the Village of Minoa" by the Village Mayor. The covenants as amended shall provide that the Village of Minoa shall have no liability to a third party also a party with rights to enforce the foregoing covenants (original or amended) for any failure to enforce same as against the Developer, any home builder or purchaser-homeowner."

; and it is further

**RESOLVED**, all other terms and conditions of the Village Board's November 3, 2008 approval resolution not modified by this resolution remain in full force and effect.

Upon motion made by Trustee Brazill, and seconded by Trustee Abbott, the foregoing resolution was put to a roll call, which resulted as follows:

Richard Donovan, Mayor	Aye
William Brazill, Deputy Mayor	Aye
Eric Christensen, Trustee	Aye
John Abbott, Trustee	Aye
John Champagne, Trustee	Aye

Resolution was adopted on December 2, 2013

## **RESOLUTION – DOT 111 RAIL TANK CARS**

## **RESOLUTION SUPPORTING THE RETROFIT OF EXISTING DOT-111 RAIL TANK CARS THAT TRANSPORT PACKING GROUPS I AND II HAZMAT BEFORE THE PIPELINES AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION IN DOCKET NO. PHMSA-2012-0082 (HM-251)**

The following resolution as drafted and proposed by the Village Attorney, was moved, seconded and adopted:

**WHEREAS**, on November 12, 2013, Village of Minoa Mayor Richard Donovan, attended the National League of Cities ("NLC") Conference in Seattle, Washington; and

**WHEREAS**, at the conference, amongst other agenda matters a "rail session" was conducted whereat amongst other relevant information disclosed a certain "Rail Tank Car Issue Summary and Action Request" was provided; included therein was an "Action Request of Local Governments" requesting a resolution expressing local government concern that federal regulations adequately remedy known safety flaws with the DOT-111 Tank Car, and make the appropriate rail safety changes;

**WHEREAS**, in that the Village of Minoa has situate within its municipal boundaries a major regional rail yard complex including, on many occasions, DOT-111 Tank Cars, Mayor Donovan has therefore urged the Village Board to adopt a resolution, submitting same prior to the December 5, 2013 deadline for public comment; and

**WHEREAS**, rail freight operations impact thousands of villages, towns, cities and counties across all regions of the United States of America; and

**WHEREAS**, safe rail operations are of critical interest to local units of government based on (1) the need to prevent catastrophic accidents like the one that occurred in Lac-Megantic, Canada in July 2013; and (2) the responsibility local governments have to provide emergency response units to manage the impact of rail accidents and derailments in communities across the country; and (3) significant costs associated with clean-up, environmental remediation, medical expenses, other personal injury damages or wrongful death claims for community residents that have the potential to surpass the rail industry's ability to pay for them; and;

**WHEREAS**, ethanol and crude oil are a large and exponentially growing segment of hazardous materials being shipped across the nation via freight rail, which will continue to be a preferred transport mode of choice for this hazmat; and

**WHEREAS**, since 1991, it has been known to industry and federal regulators that there are safety-related defects in the DOT-111 tank car that serves as the primary tank car used in the shipping of these hazardous flammable materials via freight rail; and

**WHEREAS**, the federal Pipelines and Hazardous Materials Safety Administration (PHMSA) regulates the safe transport of hazardous materials by railroads in the United States; and

**WHEREAS**, the business decisions of railroad companies and hazardous material shippers impact the safety, environment, and emergency response system in the communities in which the freight railroads traverse, but state and local governments have no ability to regulate railroad operations; and

**WHEREAS**; industry has failed to act in the last two decades to correct the known defects in DOT-111 tank cars, and waited until 2011 to seek government approval to upgrade safety standards for newly manufactured DOT-111 tank cars and

**WHEREAS**, a tank car expert from the National Transportation Safety Board testified in 2012 that a retrofit of existing tank cars is necessary because co-mingling existing unsafe DOT-111 tank cars with newly manufactured ones "does nothing to improve the safety in an accident"; and

**WHEREAS**, the petition for rulemaking submitted to PHMSA on April 3, 2012 by Barrington, Illinois and the Illinois TRAC Coalition reflects the point of view of local governments, which is supported by recommendations of the National Transportation Safety Board, that changes are needed in federal regulations and/or law to better protect public safety relative to DOT-111 tank car safety and train consist dissemination; and;

**WHEREAS**, the April 3, 2012 petition provides a compelling rationale for making long overdue changes in safe rail operations vis-a-vis retrofitting existing DOT-111 tank cars; and

**WHEREAS**, the April 3, 2012 petition demonstrates that the cost of a DOT-111 tank car fleet retrofit for existing cars would be of nominal expense over the remaining average thirty-year lifespan for the existing fleet; and

**WHEREAS**, PHMSA issued on September 6, 2013 (78 Federal Register 54849-54861) an Advance Notice of Rulemaking seeking by November 5, 2013 the input from local and state governments on the issue

of retrofitting the DOT-111 tank car; and

**NOW THEREFORE, BE IT RESOLVED**, that the Village Board of Trustees of the Village of Minoa support the April 3, 2012 petition of Barrington, Illinois and the Illinois TRAC Coalition seeking new regulations to retrofit existing DOT-111 tank cars used to transport Groups I and II Packing Materials; and it is further

**RESOLVED**, that this Resolution shall take effect from and after its passage and approval as provided by law; and it is further

**RESOLVED**, the Village Clerk-Treasurer is authorized to forward a certified copy of this Resolution to the Pipelines and Hazardous Materials Safety Administration in Docket No. PHMSA-2012-0082 (HM-251) urging expeditious action on the joint Barrington and Illinois TRAC Coalition April 3, 2012 Petition No. P-1587.

Upon motion made by Trustee William Brazill, and seconded by Trustee John Champagne, the foregoing resolution was put to a roll call, which resulted as follows:

Richard Donovan, Mayor	Aye
William Brazill, Deputy Mayor	Aye
Eric Christensen, Trustee	Aye
John Abbott, Trustee	Aye
John Champagne, Trustee	Aye

Resolution was adopted on December 2, 2013

## **FIRE DEPARTMENT**

### ***RATIFY PRIOR APPROVAL FOR DAVID HESS TO USE FIRE STATION 2***

Trustee Champagne made a motion, seconded by Trustee Christensen to ratify prior approval for David Hess to use Fire Station 2, November 30, 2013 for a birthday party. All in favor; Motion carried.

### ***CHANGE IN MEMBERSHIP – DURANTINI***

Trustee Christensen made a motion, seconded by Trustee Brazill to approve the change in membership status for Todd Durantini from Support to Active. All in favor. Motion carried.

### ***CHANGE IN MEMBERSHIP – FARNSWORTH & DePAULIS***

Trustee Brazill made a motion, seconded by Trustee Abbott to approve the change in membership status for Todd Farnsworth and Joseph DePaulis from Active to Leave of Absence through April 2014. All in favor. Motion carried.

### ***TRAINING REQUEST – REBECCA SCHERMERHORN***

A motion was made by Trustee Champagne, and seconded by Trustee Brazill to approve the training request for Rebecca Schermerhorn to attend NYS EMT Class at Rural Metro, January through May, 2014, no fee for the course if the applicant (Rebecca Schermerhorn) receives a passing grade; \$945.00 cost to the applicant, Rebecca Schermerhorn if the class is dropped or failed; approval is contingent upon Rebecca Schermerhorn executing agreement with the Village for the course fees. All in favor. Motion carried.

## **WTP / CERF**

### ***REQUEST TO WAIVE SEWER PENALTY – CINDY & DEREK SCHMITT, 105 CRISFIELD CIRLE***

Trustee Champagne made a motion, seconded by Trustee Brazill to waive the penalty fee for Cindy & Derek Schmitt, 105 Crisfield Circle in the amount of \$40.50. All in favor. Motion carried.

## **TRUSTEES REPORT**

Trustee Champagne had nothing new to report.

Trustee Christensen reported the DPW has all the holiday lighting up around the village; salt shed is complete, first-time out for snow plows on November 22, 2013, new loader has been put into service and running great and as weather permits the DPW will continue to pick up leaves.

Trustees Abbott reported December 22<sup>nd</sup> is the annual “Santa Detail” and the Fire Departments Christmas Party will be on December 23, 2013 beginning at 6:30pm at the VFW on Taft Road.

Trustee Brazill thanked DPW employees, Barb Sturick, Fire Department and everyone who helped put together another successful Christmas Tree Lighting.

## **MAYOR’S REPORT**

Mayor Donovan thanked everyone for another successful tree lighting event; weather cooperated and the evening seemed to be enjoyed by all who attended.

Mayor Donovan reminded everyone on the following upcoming events:

- Festival of Trees begins December 5<sup>th</sup> at Key Bank, Towne Center

- Manlius Chamber of Commerce Holiday Reception, Stickley, Audi & Co Showroom, December 3<sup>rd</sup>
- Mayor Donovan announced he was invited by the Governor to attend the Regional Economic Development awards ceremony, December 11<sup>th</sup> in Albany, <http://www.governor.ny.gov/press/12112013-funding-third-round-redc>

**ATTORNEY  
REPORT**

Attorney Primo had nothing new to report.

**AUDIT OF  
CLAIMS –  
ABSTRACT 12**

A motion was made by Trustee Christensen and seconded by Trustee Abbott that the claims on Abstract #012 in the amounts of General Fund - \$161,237.25 (Vouchers 543 - 574), Sewer Fund - \$32,097.10 (Vouchers 204 – 215) for a total of \$193,334.35 audited and paid. All in favor. Motion carried.

**PUBLIC  
COMMENTS**

Mike Macko, 102 Greenapple Lane asked if the board has received any new information regarding the CSX “mess” on N. Central Avenue.

Mayor Donovan stated he has not been successful in reaching anyone at CSX and if situation remains unresolved he will contact Senator Schumer again.

Wayne Konseck, 208 Fay Lane asked if volunteer members of the fire department are exempt from ambulance fees if they are transported to the hospital. Mayor Donovan stated no, volunteer or life members of the Minoa Fire Department are not exempt from ambulance fees and by law the village cannot selectively waive the fees.

**ADJOURNMENT**

A motion was made by Trustee Champagne and seconded by Trustee Christensen to adjourn the village board meeting at 7:38 pm. All in favor. Motion carried.

Respectfully submitted,

*Lisa L. DeVona*

Lisa L. DeVona  
Clerk-Treasurer