



Board of Trustee
Closed Session Meeting Minutes
Held at Winfield Township Office
130 Arbor Ave.
West Chicago, IL 60185
6/11/2018

7:31 PM - Closed Session for 5 ILCS 120/2 (C) (11) Open Meetings Act for the purpose of discussion of pending litigation or probable and imminent litigation which shall be specifically identified in the executive session minutes.

The Clerk called roll call - Trustee Voelz, Trustee Alekna, Trustee Halley, Trustee Guglielmi, and Supervisor Smith were all present.
Also present Clerk Nicole Prater and Lawyer Richard J. Tarulis.

Trustee Guglielmi asked Attorney Tarulis has any attempt been made by you to evaluate the total amount of the claim in order to discuss demand with the plaintiff's council. If not, why not? If so, what is your analysis of the amount the Township should pay and why? Attorney Tarulis advised I always look at the revenue impact and the cost of the defense. About six months ago, I handed out a letter form 2007. I recommended the settlement of \$1200 and it was much less than the cost of defense and it made sense to settle. With these pending cases, I do not have the charges in front of me, but I do believe the claim is \$370,000 is the amount they are looking for. It changes due to interest that is accruing and it is broken down by year. The State's Attorney's office is the one who calculate it.

Trustee Guglielmi asked as far as the interest goes, it must not be very material if this continues on in the courts for 20 years; what is the percentage of the interest? Attorney Tarulis stated I believe it is 5. Trustee Guglielmi advised that is pretty material. Attorney Tarulis advised it is not up to us to decide if we are going to try the case or not. They treat interest like an annuity. The whole nature of the public policy for tax objections is there has to be a procedure to stop illegal taxes. The whole system started when Abe Lincoln represented the railroad from the 1800's. The way it works the tax objectors file complaints like hotels, malls and factories, the big tax payers. If they win, only the big taxpayers gets the refund. The Defendant is the county treasurer the States Attorney represents them. It is not the County's levy; they do not have a dime at stake in these cases, and the taxing party is not even a party. We have to intervene in the cases to get into them. The whole process is backwards. The State's Attorney should be prosecuting if there are illegal taxes and the taxing district should be defending it and then everybody should be getting a refund if there are illegal taxes.



Trustee Alekna asked our total amount is \$370,000? Attorney Tarulis advised yes. If we lost every case, yes that is what they are looking for. Trustee Alekna stated I do not know why we just don't settle this and get on with it. Trustee Guglielmi advised that is where he was as well. The heavy tax items are what they are going after; we are the small fry in these tax objections. Attorney Tarulis advised (5:42Min) there is a standing offer on every case to settle for 50%; Any taxing Districts, any objection, any year, any day, they will settle for 50%. It is just standing offer.

Trustee Alekna asked then why won't we agree to that 50%-\$180,000 then?

Trustee Halley asked where are we at in the case, the court day is coming up. If everything goes as planned, what do you think will happen in your legal opinion? Attorney Tarulis: They filed motions last September. There was a new law passed; we filed a motion to dismissed based on that. They filed a response on retro activity. They will not dismiss our cases. I have worked hard on these cases, but I do not think I can make arguments based on the last Supreme Court case.

Trustee Alekna stated we are done looking for stuff. Attorney Tarulis: I feel the best thing is to withdraw our motion we thought up. It would preserve our credibility with the court. I recommend I withdraw our last motion to dismiss. That way we are back to their pending motions from last fall. They were not ready to proceed; their motions were sitting in limbo. That would be the status of the case. I would be happy to make a settlement offer. You can settle them for \$100,000 or fight them for \$10,000. That is where I think you are at. It might go on for another year or two or we can settle for \$180,000.

Supervisor Smith asked, did we win cases in the past under Judge Wheaton? Attorney Tarulis: One of the motions, yes. There are several motions that we lost this particular round. One of the motions had to do with a statute that stated General Assistance is unpredictable. The accumulation of funds is not improper. About 10 years ago, the states attorney used that statute and they won and then a couple years after that, they used the same motion and lost. We filed that motion and the court denied it due to it was decided before, but two different ways. We should have won that motion. There is another statute that states any tax objection that is more than 10 years old and had no further action must be dismissed without prejudice. We filed a motion on that and lost it. I would recommend an appeal on that when the time comes.

Trustee Voelz asked if we can go back to September when we were thinking about changing lawyers. At the time, you were doing some studying that we would win these objections. So, on one hand, you were telling us to go ahead, and now you are suggesting settling for \$185,000. Attorney Tarulis advised I am not suggesting you settle. If you heard that, you are misunderstanding. If you direct me to make a settlement, I will do it. I would recommend you spend \$10,000 instead of \$100,000.

Trustee Alekna advised we can argue all night or we can just let this go on and on, and the lawyer bills keep racking up. Attorney Tarulis stated another factor in settling is the precedency. If you settle one



year, I do not see why you would not settle the next year. If you settle, they will file more tax objections every single year.

Trustee Voelz advised that is our prerogative to make that decision. If we come out of this and advise you to settle this, next year is a whole different year we can fight it. We would not be talking \$350,000 for one year.

Trustee Alekna: Just because we have done the same thing for 17 years does not mean we have to do the same thing going forward. Let's try something new. This is why we were elected. Let's try something new. Let's give it a shot.

Trustee Halley asked how many cases on the docket you have right now for the tax objections. Attorney Tarulis advised 20. Trustee Halley asked out of the 20 cases, how many actually have statutes that have similar fate as that. Attorney Tarulis advised none of them are very clear.

Trustee Alekna asked then why are we continuing it? I know where I stand. You state this is all backwards; I feel the same way. Both sides of the lawyers are making money and the Township is paying out the money every month. To get the same story every month...constant continuances. This has been going on for 17 years, this is insanity.

Attorney Tarulis: You have the right to do whatever you want. I do not recommend a settlement at this point. It will cost you hundreds of thousands it will be cheaper to fight them.

Trustee Guglielmi advised, you need to look at that when you say make it cheaper to fight them. We are at \$20,000 in legal fees now. If this goes on 2-4 years the way the system is working, now we are up to \$80,000 and then they slap up with the entire amount of \$370,000 plus the interest. What I am hearing is we do not have a chance in these cases. Let's be done with this, settle this and start fresh.

Attorney Tarulis advised the Road District is a good example of what I recommend. We won the case; 10 years of objections were gone because we won. I think the judge made a mistake. I think we can appeal it. We have the winning argument.

Trustee Voelz: Where is the argument? Attorney Tarulis: There is nothing we can do right now because the court denied the motion, the case is still pending, and you cannot appeal while you are still at trial. You have to resolve the Circuit Court before you to the appellate court.

Trustee Guglielmi: We are blowing a lot of hot air and it is expensive hot air. We need to talk about if we want to settle as a Board and, if so, what amount. First, I am appalled that Attorney Tarulis came to this meeting and did not have the exact figure or documentation for these cases. Attorney Tarulis advised he has filing cabinets full of paperwork for these cases. I could not anticipate what was going to be discussed. I have the most recent stuff. Trustee Guglielmi advised at this time that is not what is important. What is important is that as a Board, do we want to settle this? I do.



Clerk Prater interjected and reminded the Board you cannot make decisions in closed session, only in open session. You can only do straw polls from the Board.

Trustee Voelz advised my opinion is to cut it in half and give them \$185,000. Do we have it? Trustee Guglielmi advised yes. Trustee Voelz asked if we win this, do they pay the legal fees we put in? Supervisor Smith advised No. Trustee Voelz asked so, why don't we just settle it?

Trustee Halley: So, on the off chance they do not work and we do lose in four years from now, we are paying all of the legal fees and the full amount and 5 additional years of interest. Where is the winning hand? I do not see the end to this. The chance of paying out \$400,000 way down the road vs \$185,000 now...who's to say in three years a new court case comes to our advantage. It is a muddy flawed system, but it is what we have to deal with. We did just do the budget; we reduced it by \$400,000. I agree with settling. I do not want to give the money to tax objectors, but at this rate, I do not see an end to it.

Trustee Alekna advised what we have been doing for the last 17 years has not been working. We were told during the interviews that this would be done in March. Now it is June and nothing is done. I agree with settling.

Trustee Halley asked for Supervisor Smith for her thoughts. Supervisor Smith advised she does not like giving up because I know what is going to happen and it will continue, but I do not need the Board concentrating on something so negative. I do not know what type of decision can be made here.

Clerk Prater advised no decision can be made in Executive Session.

Attorney Tarulis advised we could make a settlement offer that is not a final action. If I make an offer to settle these, I know objections will be filed forever. They do not want to do a day of trial on these cases; they are trying to wait this out. Maybe you should get a second opinion and see if you should settle.

Trustee Alekna advised Attorney Tarulis that we did get a second opinion and that the other lawyer would have settled it immediately.

Trustee Voelz asked if we write a check out for the settlement amount who does that check get written to? Attorney Tarulis advised the Treasurer withholds from your tax distribution. If you have the funds in your budget, you can write a check. It probably gets written to the tax objector's lawyer.

Trustee Guglielmi advised we have plenty of money in reserves; we would be fine.

Trustee Halley asked there is a standing offer at 50% , can we offer them less? Attorney Tarulis advised we can offer them anything. The question is if they accept it.

Trustee Guglielmi: If you put in a settlement offer, does that mean they create a date in September and back in court? Attorney Tarulis advised the settlement offer is not handled in court at all. I would be in contact with the attorney and, if he accepts it, we would do an agreed order and the judge would sign it. The way these are supposed to work, the alleged illegal taxes are calculated by rate. So like \$0.05 or \$0.10 is the illegal amount and supposed to get multiplied by the assets value of all of the objectors.



Many of the objectors are old and possibly not in business anymore. It creates a huge headache for the attorney of the objectors and the attorney divides it up among their clients. But I don't know if the clients get any money.

Trustee Alekna advised I do not care how it gets divided among the objectors. It is insane to do the same thing over and over again. Every single month there are more charges from your law firm and nothing is done. Sooner than later it will be Christmas and still nothing will be done. Attorney Tauris asked if anyone has contacted the State's Attorney's office? Trustee Guglielmi asked if the attorney was in contact with them. No response. Attorney Tauris advised the State's Attorney is the one who is the leading council. They keep track of it all. Nothing the State's Attorney can do to speed this up. If you want to spend hundreds of thousands instead in order to save tens of thousands, that is your right, that is where you are at.

Trustee Alekna stated we are going around in circles, can we please continue?

Trustee Guglielmi asked what is the settlement offer we want him to go to the other attorney?

50% is \$185,000, 40% is \$148,000, 45% 166,500. I say we ask for 40% and hopefully they take it. The only concern I have is the if it gets rejected, the 50% is not there. I say just do the 50% and be done with it. Attorney Tauris stated it is all negotiable. I suggest you start at 25%. They are looking for any excuse to get out of these cases. It is a negotiation, a starting point.

Supervisor Smith: So if we offer 25%, they could come back and say a different offer? It is a starting point; it makes sense to me to start at 25%.

Trustee Guglielmi advised, yet that is negotiation 101, but my fear is that they will not want to settle and we will just continue paying bills, and at that point I am ready to get rid of this problem, period. At any cost up to the \$370,000 we are talking about tax abatement returning money to the taxpayers. I just want this gone.

Trustee Alekna: I want this gone too. If you start negotiation at 25%, we are talking this will last another year. Attorney Tauris advised, no, it would not take that long. I could come back next month and let you know what they think, and you can take your vote and final actions.

Trustee Guglielmi asked these negotiations can happen thru e-mail, correct? Supervisor Smith can let us know if we need to call and emergency meeting to get this done before the next meeting.

Trustee Voelz: If we give the attorney parameters to negotiation between 25%-50%, we do not have to have a special meeting. Attorney Tauris advised, yes you do.

Trustee Alekna asked, why are you believing the attorney now? You guys are all going for 25%, you are falling for it. Trustee Halley: But it is a negotiation.

Trustee Alekna asked how do we hold him to one month from now to have a settlement offer? He is going to come back and say he could not get a hold of the attorney. Nothing he has said has happened.

Attorney Tauris: That is insulting. That is like going to the doctor and asking for a guarantee. Why don't you go to the judge and tell him? Trustee Alekna advised, no, that is your job.



Trustee Halley advised, I understand your frustration, but it is the nature of negotiation. Supervisor Smith advised, I think we can give him a month. We have never talked settlement before; let's give him a chance.

Trustee Halley: I will be in favor to offer the attorney 25% of the cost for starting negotiation.

Clerk Prater asked Attorney Tarulis, is it easier for you to give you parameters 25% to up to 50%?

Attorney Tarulis advised that you do not have to do anything after closed session. Whatever you decide is not a final action; you do not have to do it in open session. They do not know I want to withdraw the motion to dismiss. I could put that out there as part of the incentive with the settlement. 50% is a standing offer. You do not need to negotiate for that. I do not think we should start at 50%.

Trustee Guglielmi agrees if that is the standing offer. I agree to go 25% up to the 50%. We will not have a discussion about numbers next month. It will be we take the standing offer at 50% regardless of negotiations if they accept or not. This needs to get done. We need to move on. Fresh tax objections and lawyers and move on. I am for 25% up to 50%. Trustee Halley agreed.

Trustee Halley made a motion to rise out of Closed Session. Second by Trustee Guglielmi. No further discussion.

Trustee Voelz-Aye

Trustee Halley-Aye

Trustee Alekna-Aye

Trustee Guglielmi -Aye

Supervisor Smith-Aye

Closed Session adjourned at 8:12PM.

A handwritten signature in black ink, appearing to read "Nicole Prater", written over a horizontal line.

Clerk Nicole Prater

A handwritten signature in black ink, appearing to read "Dona d. Smith", written over a horizontal line.

Supervisor Dona Smith

Released 8/13/18