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# PROCEEDINGS OF THE BOARD OF TRUSTEES OF THE TOWN OF CICERO

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The Board of Trustees of the Town of Cicero met Tuesday, August 28, 2018 at 10:00 A.M., in the Town Hall Council Chambers, Town of Cicero.

On roll call there were present:

President: Dominick  
Clerk: Punzo-Arias  
Trustees: Banks, Cava, Garcia, Porod, Reitz, Virruso.  
Absent: Trustee Cundari (Excused).

Thereupon, President Dominick declared a quorum present and the meeting duly convened and requested that all present in attendance stand and join in the Pledge of Allegiance to the Flag.

On motion of Trustee Banks seconded by Trustee Garcia, the minutes of the Regular Meeting and the Public Hearing minutes held Tuesday, August 14, 2018 at 10:00 o'clock A.M., were approved, the reading being dispensed with, each member having received a copy.

## ***PRESENTATION***

(147-18)

The following seniors received a certificate for being Super Seniors 90 and Beyond for the month of August:

Dorothy Trunda (January)

Andrew Dancy (January)

## ***APPROVAL OF BILLS***

(148-18)

On motion of Trustee Virruso seconded by Trustee Cava, the list of bills itemized in Warrant #16, dated August 23, 2018, in the total amount of \$2,941,095.74, the list of manual checks dated August 11 thru August 22, in the total amount of \$16,224.63, and the list of online payments dated August 10 thru August 23, in the total amount of \$0.00, were accepted, placed on file and approved for payment; action taken by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.  
Nays: None.

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**(149-18)**

On motion of Trustee Garcia seconded by Trustee Cava, payroll (*Estimated Corporate \$1,455,198.99 & Library \$26,426.00*) was approved for the active employees listed on the printout dated 08-22-18; action taken by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.  
Nays: None.

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**(150-18)**

By Trustee Cava:

RESOLVED, that the list of medical claims and the stop loss insurance policy premium for the month of July/2018, prepared by Blue Cross & Blue Shield of Illinois, in the total amount of \$1,451,291.85, be accepted, placed on file and approved for payment.

Which was on motion of Trustee Cava seconded by Trustee Garcia, approved by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.  
Nays: None.

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**(151-18)**

By Trustee Banks:

RESOLVED, that the life and accidental death & dismemberment insurance premium for the month of September/2018, prepared by Dearborn National, in the total amount of \$5,656.69, be accepted, placed on file and approved for payment.

Which was on motion of Trustee Banks seconded by Trustee Porod, approved by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.  
Nays: None.

## ***BLOCK PARTY PERMITS***

On motion of Trustee Virruso seconded by Trustee Garcia, the following block party permits were approved at the following locations; approval contingent upon compliance of town ordinances:

- |          |                                       |                       |
|----------|---------------------------------------|-----------------------|
| (152-18) | 1300 Block of 51 <sup>st</sup> Avenue | Sunday, September 2   |
| (153-18) | 1800 Block of Lombard Avenue          | Saturday, September 1 |
| (154-18) | 3600 Block of 53 <sup>rd</sup> Court  | Saturday, September 1 |

## ***PERMITS***

(155-18)

On motion of Trustee Garcia seconded by Trustee Reitz, permission was granted St. Anthony of Padua Church to host a 5k race on Saturday, September 22nd, 2018 from 9:00 AM to 12:00 PM (Noon) on the route designated by the Superintendent of Police.

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(156-18)

On motion of Trustee Porod seconded by Trustee Raleigh, the permission was granted St. Frances of Rome to host a "Noche Mexicana" fundraising event to be held in the school auditorium on Saturday, September 15<sup>th</sup>, 2018 from 6:00PM to 11:59PM.

## ***ORDINANCES***

("O" 69-18)

On motion of Trustee Reitz seconded by Trustee Cava, the Ordinance amending Chapter 10, entitled "Alcoholic Beverages", Section 10-58, entitled "Classes Designated; Fees; Number Limited" of the Code of Ordinances of the Town of Cicero, Illinois, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

*(Purpose of Ordinance)*

*(The purpose of this ordinance is to amend Chapter 10, Section 10-58 of the Town Code as set forth herein and to authorize the Town President to take any and all action necessary in conformity therewith.)*

Section 10-58: Classes Designated; Fees; Number Limited.

~~(n) When any of the licenses in this section becomes available, and there exists more than one qualified applicant for the license, the license shall be issued by means of a lottery. Such lottery shall be conducted in accordance with rules and regulations which shall be established by the local liquor control commissioner or the deputy local liquor control commissioner. Class M license. A class M license shall authorize the retail sale of all alcoholic liquor for consumption on the premises and the retail sale of all alcoholic liquor for consumption off the premises. The annual fee for such license shall be \$8,000.00. There shall be no more than 15 class M licenses issued within the corporate limits of the town. A class M license shall be subject to the following restrictions:~~

~~(1) The products sold for consumption off the premises shall neither be opened nor consumed on the premises;~~

~~(2) The total square footage of the premises dedicated for the retail sale of alcoholic liquor for consumption off the premises shall not exceed one-third of the total square footage of the premises;~~

~~(3) Permitted goods and merchandise, other than alcoholic liquor, shall also be offered for retail sale on the premises; and~~

~~(4) The premises are operated as a filling station, a gasoline station, a service station or any other location wherein gasoline, diesel fuel, gasohol or any other motor fuel is sold or offered for sale.~~

~~(o) In addition to any other penalty imposed for violations of this chapter, a minimum fine of \$200.00 and a maximum fine of \$750.00 shall be imposed for any licensee selling alcoholic beverages or package goods in violation of the liquor license issued under this section. When any of the licenses in this section becomes available, and there exists more than one qualified applicant for the license, the license shall be issued by means of a lottery. Such lottery shall be conducted in accordance with rules and regulations which shall be established by the local liquor control commissioner or the deputy local liquor control commissioner.~~

~~(p) In addition to any other penalty imposed for violations of this chapter, a minimum fine of \$200.00 and a maximum fine of \$750.00 shall be imposed for any licensee selling alcoholic beverages or package goods in violation of the liquor license issued under this section.~~

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("O" 70-18)

On motion of Trustee Virruso seconded by Trustee Garcia, the Ordinance authorizing and approving the sale of obsolete personal property for the Town (*Sale of Used Optical Equipment to Premier Optical for the sum of \$6,250.00*) was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

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**("O" 71-18)**

On motion of Trustee Virruso seconded by Trustee Reitz, the Ordinance authorizing and approving an intergovernmental agreement regarding the Fiscal Year 2018 Justice Assistance Grant Award (*Funds to be used for law enforcement programs, court and corrections programs, drug treatment, victim assistance services and the upgrading of technology in connection with prevention initiative that strengthen the nation's criminal justice system*) was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

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**("O" 72-18)**

On motion of Trustee Garcia seconded by Trustee Porod, the Ordinance authorizing and approving the purchase of vehicle(s) for the Department of Public Works (*Two (2) Hilbilt Dump Bodies from H.C.I. Transportation Technologies, Inc. in the total amount of \$30,900.00; \$15,450.00 each*), was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

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**("O" 73-18)**

On motion of Trustee Virruso seconded by Trustee Cava, the Ordinance authorizing and approving a Collective Bargaining Agreement for Patrol Officers between the Town of Cicero, Illinois and the Illinois Fraternal Order of Police Labor Council/Cicero Lodge No. 2, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

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**("O" 74-18)**

On motion of Trustee Banks seconded by Trustee Cava, the Ordinance amending Chapter 94, Article V entitled "Operation of Vehicles", Section 94-144, entitled "Automated Traffic Law Enforcement System" of the Code of Ordinances of the Town of Cicero and an agreement with Safespeed, LLC, (*To provide automated traffic enforcement services to the Town*), was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

*(Purpose of Ordinance)*

*(The purpose of this ordinance is to amend Chapter 94, Article V, Section 94-144 of the Town Code to adopt new regulations, to approve an agreement with Safespeed, LLC for said services and to authorize the Town President and other Town officials to take all action necessary to carry out the intent of this Ordinance.)*

Section 94-144: Automated Traffic Law Enforcement System.

This ordinance provides for an automated traffic law enforcement system, which detects motor vehicles which fail to abide by traffic-control signals at intersections under penalty of a fine, and a system of administrative adjudication by which such detected infractions shall be resolved.

It shall be a violation of this ordinance for anyone to operate a vehicle in disregard of a traffic control device or to turn right on a red light where it is posted "No Turn on Red."

Automated Traffic Law Enforcement System.

- (a) Detection. As used in the Section, "automated traffic law enforcement system" means a device within the Town with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of motor vehicles entering an intersection against a steady or flashing red signal indication in violation of Section 11-306 of the Illinois Vehicle Code, 625 ILCS 5/11-306. The automated traffic law enforcement system shall not be used to enforce speed limit regulations. The recorded images produced by the automated traffic law enforcement system, which consists of either 2 or more photographs or 2 or more electronic images of a video recording showing the motor vehicle, shall capture and display images of the vehicle allegedly violating traffic-control signals, together with the license plate on such vehicle, and shall also show the time, date and location of the violation.
- (b) Signage. Any intersection equipped with an automated traffic law enforcement system must have a sign posted which is visible to approaching traffic indicating that the intersection is being monitored by an automated traffic law enforcement system.
- (c) Notice of Violation. When the automated traffic law enforcement system records a motor vehicle entering an intersection in spite of a steady or flashing red signal indicating a violation of Section 11-306 of the Illinois Vehicle Code, 625 ILCS 5/11-306, this shall be deemed a non-criminal violation for which a civil penalty of one hundred dollars (\$100.00) shall be assessed and for which no points shall be assigned by the Illinois Motor Vehicle Code Point System for License Suspension to the owner or driver of the vehicle. The Town shall issue a written notice of the violation to the registered owner or lessee of the vehicle, which shall be mailed by first class mail within thirty (30) days after the Illinois Secretary of State notifies the Town of the identity of the registered owner or lessee of the vehicle, and in no event later than ninety (90) days following the violation. Each notice of violation associated with an automated traffic law violation shall require a review of the associated recorded image by an officer or retired officer of the Town police department empowered under this ordinance to determine whether a red light offense has occurred or whether one of the defenses enumerated below in paragraph (e) is visibly applicable upon inspection. Upon determination that the recorded image captures a violation of one of the foregoing provisions and that no defense applies, the notice of violation shall be served upon the registered vehicle owner in the manner provided for below. The Traffic Compliance Administrator shall retain a copy of all violation notices, recorded images and other correspondence mailed to the alleged violator. Each notice of violation, which shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of the above-noted statutory and local provisions and shall establish prima facie evidence of a violation, subject to rebuttal on the basis of the defenses established in paragraph (e), shall include the following:
  - (1) the name and address of the registered owner or lessee of the vehicle, as indicated by the records of the Secretary of State, or, if such information is outdated or unattainable, then the last known address recorded in a United States Post Office approved database;
  - (2) the registration number of the motor vehicle involved in the violation;
  - (3) the vehicle make, if available and readily discernible;
  - (4) the violation charged;

- (5) the location where the violation occurred;
  - (6) the date and time of the violation;
  - (7) a copy of the recorded images;
  - (8) the amount of the civil penalty imposed and the date by which the civil penalty should be paid if liability for the violation is not going to be contested;
  - (9) a statement that the recorded images are evidence of a violation of a red light signal;
  - (10) a warning that failure to either pay the civil penalty or contest liability is an admission of liability and may result in a suspension of the driving privileges of the registered owner or lessee of the vehicle in addition to the specified penalties for failing to contest liability or pay the fine in advance of the hearing. Payment of the civil penalty or contesting of liability must be done in writing within thirty (30) days of the mailing of the notice of violation or by attending the administrative hearing;
  - (11) the date, time and place of the administrative hearing at which the charge may be contested on its merits, a date that shall be no less than fifteen (15) days from the mailing or other service of the first notice of violation;
  - (12) a statement that payment of the indicated fine and of any applicable penalty for late payment shall constitute a final disposition of the violation; and
  - (13) the signature of the party reviewing the recorded images and confirming that a violation took place.
- (d) Penalty and Final Determination of Violation Liability.
- (1) If the civil penalty of One Hundred Dollars (\$100.00) referred to in paragraph c herein is not timely paid or the Notice of Violation referred to in paragraph c herein is not contested timely, a One Hundred Dollar (\$100.00) penalty will be assessed in addition to the original One Hundred Dollar (\$100.00) fine by way of "Final Determination of Violation Liability."
  - (2) The Town, through its Treasurer, Clerk, Police Department, Law Department, Administrative Adjudication Program, and/or any other designated agent of the Town, may establish procedures for the collection of the civil penalty imposed.
- (e) Defenses. The following are the only defenses available for an alleged violator contesting his or her liability for a violation, which shall be weighed by the Hearing Officer and shall only rebut the prima facie case established by the notice of liability insofar as one or more of the following defenses are established by a preponderance of the evidence:
- (1) the motor vehicle or registration plates were stolen before the violation occurred and were not under the control of or in the possession of the owner at the time of the violation, which may be demonstrated through the submission of a certified copy of a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner;
  - (2) the vehicle was an authorized emergency vehicle;
  - (3) the driver of the vehicle passed through the intersection in spite of a red light either to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
  - (4) the facts alleged in the Notice of Violation are inconsistent or do not support a finding that a violation occurred;
  - (5) the operator of the vehicle received a Uniform Traffic citation from a police officer at the time of the violation for the same incident as captured by the automated traffic law enforcement system and either paid such citation or successfully contested said citation;
  - (6) the vehicle was leased to another and within sixty (60) calendar days after the citation was mailed to lessor, lessor submitted to the municipality the correct name and address of the lessee of the vehicle identified in this Notice of Violation at the time of the alleged violation, together with a copy of the lease agreement, the lessee's driver's license number and any additional information that may be needed; and,
  - (7) the respondent was not the registered vehicle owner, lessee or renter of the cited vehicle at the time of violation.
- (f) Administrative Adjudication. The Town shall utilize its system of administrative adjudication for vehicular standing and parking violations, violations regarding the display of municipal stickers/licenses, and automated traffic law violations. The administrative adjudication system for all violations of the Town Code subject to administrative adjudication shall be comprised of a Code Hearing Unit which shall consist of a Hearing Officer and any other officials deemed necessary, including a Traffic Compliance Administrator

and any ordinances identified by the Ordinances of the Town pertaining to such administrative hearing body. Such officers shall be vested with the power, authority and limitations as are hereinafter set forth.

- (g) Powers of the Hearing Officer. The Hearing Officer shall have all of the powers granted to Hearing Officers under 65 ILCS 5/1-2.1-4, the provisions of which are incorporated herein by reference, including the power to preside over all administrative hearings as the adjudicator, administer oaths, hear testimony and accept evidence that is relevant to the existence of the Code violation.
- (h) Powers of the Traffic Compliance Administrator. The Traffic Compliance Administrator shall have all of the powers granted by 625 ILCS 5/11-208.3(b)(1), the provisions which are incorporated herein by reference.
- (i) Establishment of Hearing Unit. The Town President is hereby authorized to appoint necessary officers to establish the Code Hearing Unit and to otherwise comply with the terms herein.
- (j) Appointment of Traffic Compliance Administrator. The Town President, with the advice and consent of the Town Board of Trustees, shall appoint a Traffic Compliance Administrator, or a designee, who is authorized to adopt, distribute and process parking, compliance and automated traffic law violation notices, collect money paid as fines and penalties for the above noted violations, operate an administrative adjudication system and make certified reports to the Secretary of State regarding a registered vehicle owner's failure to pay fines and penalties in accordance with 625 ILCS 5/6-306.5. The Town Administrator shall act as the Traffic Compliance Officer unless or until such position is filled by the President and Board of Trustees.
- (k) Service of Violation Notices. Violation Notices must be mailed to the address of the registered owner or lessee of the cited vehicle as recorded with the Secretary of State within thirty (30) days after the Secretary of State notifies the Town of the identity of the registered vehicle owner, but no later than ninety (90) days after the date of the violation. If the notice of violation is returned as undeliverable, then the notice of violation shall be sent to the last known address recorded in a United States Post Office approved database.
- (l) Adjudicative Hearing. The hearing shall be tape recorded, and the Hearing Officer shall conduct the hearing in accordance with his or her powers and duties, enumerated herein. Alleged violators who appear at the administrative hearing to contest an alleged violation may be represented by legal counsel at their own expense, however, formal rules of evidence shall not apply to the administrative hearing. The Hearing Officer shall enter either a default judgment or a determination of liability or non-liability in accordance with consideration of the facts and testimony, if any, and shall constitute a final determination of liability from which an appeal may be taken.
- (m) Collection of Fines and Penalties. Nothing contained in this Section shall prevent the Town from pursuing all available remedies, allowed by law, to collect fines and payment of penalties owed to Town.
- (n) Notice of Impending Driver's License Suspension. This notice shall be sent via first class United States mail, postage prepaid, to the address recorded with the Secretary of State of any person liable for any fine or penalty due and owing the Town for five (5) or more unpaid automated traffic law violations. If such mailing is returned as undeliverable, then the Town shall send the notice to the last known address recorded in a United States Post Office approved database. If Town subsequently makes a Certified Report to the Secretary of State, the subject vehicle owner may challenge the accuracy of the Certified Report in writing. To do so, the vehicle owner must submit to the Administrator a written statement under oath, together with supporting documentation, establishing one of the following grounds for challenging the accuracy of the Certified Report: (1) that the person was not the owner or lessee of the subject vehicle or vehicles receiving five (5) or more automated traffic law violations on the date or dates such Violation Notices were issued, or (2) that the person already paid the fines or penalties for the five (5) or more automated traffic law violations indicated on the Certified Report. Such statement and supporting documentation must be sent to the Administrator by certified mail, return receipt requested, or hand delivered to the Administrator within five (5) days after the person receives notice from the Secretary of State that the person's driver's license will be suspended at the end of a specified period of time unless the Secretary is presented with a notice from the Town certifying that the fines or penalties due and owing have been paid or that the inclusion of the person's name on the Certified Report was in error.



- (o) Procedures for Non-Residents. Where the registered owner or lessee of the cited vehicle is not a resident of the Town but seeks to contest the merits of the alleged violation, such persons may contest the charges using the same available defenses as stated above, and the same procedures – they may attend the administrative hearing or they may submit any and all documentary evidence no later than the hearing date referenced in the notice of liability, together with a written statement reflecting that they are non-residents of the Town.

## **RESOLUTION**

**(“R” 72-18)**

On motion of Trustee Garcia seconded by Trustee Virruso, the Resolution authorizing and approving the settlement of litigation and the execution of a settlement agreement in the case of L. Haro v Town of Cicero, et al. (Case No 2017 MR 3675), was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

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**(“R” 73-18)**

On motion of Trustee Garcia seconded by Trustee Cava, the Resolution authorizing and approving the settlement of litigation and the execution of a settlement agreement in the case of B. Amilcar v Town of Cicero, (Case No 2017 WC 35311), was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

## **NEW BUSINESS**

A Public Bid Opening was held on 08/16/2018 for the 2018 LED Luminaire Installation - ComEd Energy Efficiency Grant Program. The following bids were received and reviewed by the Town Engineer:

<u>CONTRACTOR'S NAME</u>	<u>MANUFACTURER</u>	<u>BID AMOUNT</u>
H & H Electric	American Electric	\$239,774.80
Lyons Pinner Electric Companies	Leotek	\$239,797.00
Twin Supplies, LTD	Leotek	\$255,411.00
	Phillips	\$292,707.00

John Burns Construction	Phillips	\$274,762.00
	Leotek	\$286,676.00
	GE	\$306,878.00
Utility Dynamics	American Electric	\$283,420.00
	Leotek	\$283,420.00
Meade Electric	Eaton	\$299,671.88
	GE	\$314,889.24
All Tech Energy, Inc.	American Electric	\$397,195.00

**(157-18)**

On motion of Trustee Porod seconded by Trustee Garcia, the Board concurred with the recommendation of Town Engineer, Tim Geary to award Lyons Electric Company, the contract for the 2018 LED Luminaire Installation – ComEd Energy Efficiency Grant Program in the amount of \$239,797.00; action taken by the following vote:

Ayes: Banks, Cava, Garcia, Porod, Reitz, Virruso.

Nays: None.

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President Dominick opened the meeting to the public for their comments.

B. Vargas inquired on the recent property tax increases.

S. Gomez requested the hours of operation to be extended to match that of the Berwyn permit for the 1800 Block of Lombard Avenue block party request.

On motion of Trustee Virruso seconded by Trustee Garcia, the board then stood adjourned at 10:22 A.M. to meet on Tuesday, September 11, 2018 at 10:00 A.M., in the Town Hall, Town of Cicero.

MARIA A. PUNZO-ARIAS, TOWN CLERK