

**RESOLUTION NUMBER 21 -07**

**RESOLUTION ENDORSING A GRANT APPLICATION BY  
STEPHEN PICKETT, VILLAGE PRESIDENT OF THE VILLAGE OF  
SLEEPY HOLLOW IN CONNECTION WITH THE  
TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE  
FEE LAWSUIT AND JUDGMENT**

**WHEREAS**, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

**WHEREAS**, in 1997, the State of Illinois enacted the Telecommunications Infrastructure Maintenance Fee (IMF) Act, which authorized the imposition of a fee of 1% of the gross charged on wireless retailers. Municipalities throughout the state imposed the IMF on telecommunications bills from January 1, 1998 through February 7, 2002; and

**WHEREAS**, in 1998, a lawsuit was filed challenging the fee, which the court ruled unconstitutional and, upon appeal, the Illinois Supreme Court affirmed the unconstitutionality of the Municipal IMF only as it applied to wireless retailers; and

**WHEREAS**, in 2000, municipalities that imposed the IMF were joined as defendants in a class action lawsuit that asserted the unconstitutionality of the Infrastructure Maintenance Fee and sought refunds of the IMF; and

**WHEREAS**, as of October 18, 2005, a settlement was approved that required defendant class members to pay into the settlement fund 70% of the amounts collected through the Municipal IMF for the wireless telecommunications services; and

**WHEREAS**, the court will distribute the settlement fund in accordance with Cy Pres principles, or for its next best use. The settlement fund will be distributed as follows:

60% for municipal emergency 911 telecommunications programs located anywhere within the State of Illinois; and

40% for medical facilities providing emergency care to indigent patients located in areas outside the six-county northeastern Illinois region; and

**WHEREAS**, the court has established a three person committee (Cy Pres Committee) to make recommendations as to how the cy pres grants will be distributed.

**NOW THEREFORE BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**Section One.** That the Village of East Dundee hereby requests use of the telecommunications infrastructure maintenance fee cy pres funds as part of a group grant application tendered by the Village of Sleepy Hollow.

**Section Two.** That Stephen Pickett, the Village President of the Village of Sleepy Hollow, is authorized to file an application on behalf of the Village of East Dundee with the Cy Pres Committee for a grant.

**Section Three.** That the funds applied for will be expended consistent with the recitals in the application.

**Section Four.** That Stephen Pickett, the Village President of the Village of Sleepy Hollow, is authorized to furnish such additional information, assurances, certifications and amendments as the Cy Pres Committee may require in connection with this grant application.

**Section Five.** That Stephen Pickett, the Village President of the Village of Sleepy Hollow, is authorized and directed on behalf of the Village of East Dundee to execute and deliver a grant application and all subsequent amendments thereto between the Village of Sleepy Hollow and the Cy Pres Committee and the Clerk of the Village of Sleepy Hollow is authorized and directed on behalf of the Village of East Dundee to attest said applications and all subsequent amendments thereto.

**Section Six.** That Stephen Pickett, the Village President of the Village of Sleepy Hollow, is authorized and directed to take such action as is necessary or appropriate to implement, administer and enforce said applications and all subsequent amendments thereto on behalf of the Village of East Dundee.

**Section Seven.** That the Village of Sleepy Hollow will provide the Cy Pres Committee with a certification of a certified public accountant certifying that the grant funds were expended in conformity with the formal application of the use of the funds to ensure compliance with the grant program. Certification will be provided within 90 days of a request by the Cy Pres Committee.

**Section Eight. Severability.** If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

**Section Nine. Repeal.** All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**Section Ten. Publication.** This resolution shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 6<sup>th</sup> day of Aug, 2007, pursuant to a roll call vote as follows:

AYES: Ruffalo, Carlini, Lynam, Cichowski,  
Mahony, Pres. O'Leary.

NAYES: \_\_\_\_\_

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

Gorman

Approved by me this 6<sup>th</sup> day of Aug, 2007.

Daniel O'Leary  
DANIEL O'LEARY, Village President

Published in pamphlet form this 7<sup>th</sup> day of Aug, 2007, under the authority of the President and Board of Trustees.

ATTEST:

Susan Norton  
SUSAN NORTON, Village Clerk

Recorded in the Village Records on Aug - 7, 2007.

