

Report of the Special Investigative Counsel
Regarding the Appointment of Thomas Sheahan as Oak Brook Police
Chief and the Passage of Special Pension Legislation to Benefit Sheahan

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SCOPE AND INDEPENDENCE OF INVESTIGATION AND REPORT

Bryce Downey & Lenkov LLC (“BDL”) was engaged by the Village of Oak Brook on behalf of its Village Board of Trustees (“Board” or “Trustees”) as Special Investigative Counsel on August 15, 2012. As Special Investigative Counsel, BDL was asked to conduct an independent, full and complete investigation of:

- I. The appointment and approval of Thomas Sheahan as Police Chief in 2005;
- II. The passage of legislation relating to the Sheriff’s Law Enforcement Program (SLEP) in 2007 (“SLEP Legislation”);
- III. The approval of a lobbying contract to hire Robert Molaro and Michael Thomson in 2009.

The information in this Report was gathered under applicable attorney client-privilege and attorney client work product doctrine and with due regard for the privacy of the interviewees and the documents reviewed. All materials were handled and maintained in a secure and confidential matter. This Report sets forth the essential findings of the investigation. Citations in this report reference sources, transcripts, Village documents, emails, etc. located in footnotes in the Report.

The Special Investigative Counsel conducted the investigation by:

- Conducting over 30 interviews with Village Trustees, officials, staff and other knowledgeable individuals;
- Analyzing thousands of pertinent electronic data and documents;
- Reviewing applicable Village policies, practices and procedures;
- Reviewing Village Board Meeting Minutes from Open and Closed Sessions, video of Village Board meetings, internal Village Memorandum, Village employment contracts;
- Reviewing legislative records, transcripts from the Illinois House of Representatives, media reports and other pertinent documents.

This Report is structured into three sections addressing each of these issues. However, it is important to note that there is substantial interrelatedness between events and individuals

involved in each matter that has surfaced throughout the process of this investigation. Therefore, overlap between these issues will be addressed intermittently and at the conclusion of the Report.

The authors of this report have no subpoena power or authority to indict or levy charges against individuals involved. The witnesses interviewed in this investigation, with few exceptions, were cooperative and forthright. Individuals participated voluntarily and statements made were not under oath. No party interfered with, or attempted to influence, the findings in this Report.

The task has been a fact-finding mission and intensive effort to discover and analyze issues presented by the Village regarding how the Police Chief appointment came to be, what process was involved, what led to the passage of SLEP legislation in 2007 that benefitted former Police Chief Thomas Sheahan and how Robert Molaro, who brought forward that legislation, was subsequently hired by the Village as a paid lobbyist in 2009. This chain of events is of great concern to the Village because of the resultant pension obligation liability of approximately \$750,000. Where possible, we have attempted to report and utilize “evidence grade” information; however, that was not always possible.

Many of the specific details and procedural steps leading to Sheahan’s transfer of pension credit and the Village’s resultant financial liability are thoroughly detailed in a well-prepared and presented Statement of Claim made by the Village’s Attorney before the Board of Trustees of the Illinois Municipal Retirement Fund (IMRF) Benefit Review Committee (*In Re Village of Oak Brook and Thomas F. Sheahan*, IMRF File Numbers SHT-4491J and ER #4572) (“Statement of Claim”) requesting a hearing. This Statement of Claim speaks for itself and there is no need to rehash what is already stated within it. Therefore, the intent of this Report is to address relevant

context and conduct of the individuals who worked for the Village of Oak Brook and others peripherally involved in these issues.

I. APPOINTMENT AND APPROVAL OF POLICE CHIEF THOMAS SHEAHAN

In April 2004, following the departure of Police Chief Allen Pisarek, who had served with the department 30 years, the process began to search for a replacement. Village President Kevin Quinlan (“Quinlan”) along with Village Manager Richard Boehm (“Boehm”) initiated a search. Outside firms along with others including the Police Chief from LaGrange Park were consulted to do a State wide search which was broadened to a nationwide search. Initially, a pool of over 50 candidates was compiled that was narrowed down to a short list based on review of candidate rankings, background and experience.

1. Police Chief Selection Process

The Village began receiving many candidate submissions and resumes for the Police Chief position. Village Manager Boehm reviewed many candidates and discussed potential appointments with Quinlan and other Trustees. Village officials discussed who to interview from the collection of candidates but the process was gradual. Deputy Police Chief Steve Larson voiced concern to Quinlan over the delay, the difficulty within the Oak Brook Police Department concerning the Police Chief vacancy and asked to speed up the process.

In the interim, Quinlan, without consulting any Trustees or even the Village Manager, made a temporary appointment of John Carpino, former Police Chief of Willow Springs, as acting Police Chief. As a result of Quinlan’s unilateral appointment, opposition developed among Village Trustees about the ongoing process to appoint a permanent Police Chief.

Subsequently, Quinlan proposed Carpino for appointment as permanent Police Chief but a majority of Village Trustees rejected it without taking further action on a permanent choice.

On September 7, 2004, three months after Carpino was appointed, Quinlan, Boehm, and the Village Board held a Special Meeting to discuss the selection process of a permanent police chief. At the meeting, Trustees voiced concerns over heavy-handedness, prejudice and bias involved in making the appointment, particularly relating to Carpino. Several Trustees demanded to have advice and consent in regard to Quinlan's appointment. Soon thereafter, Trustees proposed a list of four candidates that did not include Carpino. Quinlan subsequently proposed Michael D'Amico for the permanent appointment at a closed session meeting but he was rejected by a 5-1 vote.

The name of Thomas Sheahan appears to have been first introduced early in the process. Soon after the Village publicly announced that Chief Pisarek was retiring, Sheahan was recommended for the Police Chief position by his brother, James Sheahan, in a telephone call to Village President Kevin Quinlan. The job opening, however, had not yet been officially posted. Quinlan had a prior relationship with James Sheahan and had done business together while working for Coca Cola Company. James Sheahan was Assistant General Manager of McCormick Place (which has a sizeable account for Coca Cola Company) and later served as Chief of External Relations for the Metropolitan Pier and Exposition Authority ("McPier"). On the call, James Sheahan acknowledged that Quinlan would engage in a search for a new Police Chief. Sheahan referenced how long he had known Quinlan and then stated his brother was looking for a job as a Police Chief. Quinlan stated he had no knowledge of Thomas Sheahan prior to this call. James Sheahan informed Quinlan about his brother and asked if Quinlan would accept his submission and review it. Quinlan agreed to do so. Shortly thereafter, Quinlan

received a personal letter from Thomas Sheahan with an enclosed resume asking to be considered for the Police Chief position.

2. Police Chief Candidate Interviews

The Village Trustees and Village Manager conducted interviews of Police Chief candidates after the initial list was narrowed down. The interview process was organized by Village Manager Richard Boehm who, along with Trustees and Village President Quinlan, interviewed candidates. The structure of the interview consisted of a matrix of general questions put to all candidates and then an opportunity for Trustees to ask specific questions of the individual applicant. The interview conducted with Sheahan stood out from the others. The nature of the interview did not follow the protocol and general back-and-forth questioning that occurred for other candidates. Instead, Sheahan offered a narrative of his background and shared a number of personal anecdotes relating to his personal and professional experiences. The conversational nature of Sheahan's interview was certainly noted by Trustees and concerned the Village Manager.

Thomas Sheahan also appears to have been recommended by Village Trustee, and subsequent Village President, John Craig. It is unknown, however, who actually recommended Sheahan to Craig for the Police Chief position. Craig was very supportive of Sheahan for the appointment and, according to some accounts, lobbied Trustees to appoint Sheahan Police Chief. At a breakfast meeting at the Waterfront restaurant in early 2005, Quinlan met with John Craig and the Homeowner Association President for Forest Glen, Harry Peters. Although the purpose of the meeting was to discuss Forest Glen, the selection process and appointment of a Police Chief came up. Craig told Quinlan that the Board of Trustees "would not approve anybody but

Sheahan” or words to the effect of the Police Chief appointment “had to be Sheahan.”

According to Quinlan, this conversation very much influenced his decision to appoint Sheahan.

The only recommendations theretofore made for Sheahan to Quinlan were by Sheahan’s brother, James, and John Craig. After this meeting, Quinlan decided to support the appointment of Sheahan.

3. Employment Contract for Police Chief Thomas Sheahan

In March 2005, a proposed employment agreement for Thomas Sheahan was drafted initially by Village Manager Boehm. Village officials discussed the main provisions of the contract with Sheahan on March 17, 2005, who found them to be “very acceptable” (*see* Village Memo, 3/18/05). On March 18, 2005, a copy of the agreement was submitted to Thomas Sheahan’s attorney for review. On March 21, 2005, Thomas Sheahan was sworn in as Chief of Police. On March 29, 2005, the Assistant Village Manager sent a revised version of the Employment Agreement noting changes made by Sheahan and his attorney. One of the changes was to paragraph 4 relating to Sheahan’s salary and police pension plan. The memo notes that “language was added to allow for the option of participation in the SLEP retirement Fund, as opposed to IMRF or Police Pension, by Mr. Sheahan should he qualify.”

The Assistant Village Attorney and Assistant Village Manager reviewed these changes to the Employment Agreement before its authorization but did not appear to have done any further research into the issue of transferring credit from Chicago based pension funds through SLEP. Specifically, no examination was undertaken to ascertain what if any financial obligations would be imposed upon the Village if this option were exercised by Sheahan.

The Assistant Village Attorney made the changes requested by Sheahan and his attorney and then sent the agreement to the Village for authorization by the Village Manager. On April 13, 2005, Sheahan's Employment Agreement was executed by the Village.

As early as April 2005, Sheahan began looking into his retirement plan and attempting to determine whether to go into SLEP or IMRF with the assistance of his attorney.

On June 13, 2005, Sheahan submitted forms for his Notice of Enrollment in IMRF ("IMRF Enrollment Form") and Election of Police Chief to Participate as a SLEP Member ("SLEP Participation Form"). On the SLEP Participate Form, Sheahan listed his Deerfield Police Pension as well as his City of Chicago Municipal Pension (Airport Police) even though the city pension fund credit could not legally be transferred at that point. On the Notice of Enrollment Form question #12 asked, *Is member Police chief eligible for transfer into IMRF for SLEP coverage?* Finance Director Darrell Langlois on behalf of the Village marked "Yes." Neither the Finance Director, Assistant Village Manager nor any others involved in this review had worked with SLEP before under IMRF. The issue that Sheahan's Chicago pension credits could not be transferred but were listed on the forms anyway appears not to have been addressed by anyone in the Village, including Village Attorneys.

These forms were reviewed and signed off by the Village. However, no information suggests any awareness of the possible pension liability resulting from a transfer of Sheahan's pension credits for his work for the City of Chicago. Indeed, such a transfer was not possible until passage of the 2007 SLEP legislation. After a thorough analysis of the Village's review process of Sheahan's employment contract and other forms/documents submitted, there is no evidence to indicate any awareness of the pension liability consequences Sheahan's enrollment in SLEP would come to have. Moreover, because of the timing of the SLEP amendment, even

the most diligent of examinations would not and could not have revealed that the SLEP option might result in a tremendous increase in the Village's pension obligation.

II. PASSAGE OF SLEP LEGISLATION IN 2007

In 2007, the 95th General Assembly of the Illinois State Legislature discussed certain legislation, commonly known as Senate Bill 1380 and ultimately adopted as Public Act 95-504, concerning proposed amendments to the Pension Code. In general, they addressed pension benefits for surviving spouses of Chicago police officers that were unrelated to SLEP Legislation (see Exhibit). One provision of the SLEP Legislation amended Article 8 of the Pension Code (the Article governing Sheahan's MEABF Service) to create a new Section 8-226.7. This new section ("Sheahan Provision") permitted transfer of Article 8 pension credits into SLEP. On May 30, 2007, State Representative Robert Molaro, addressed the SLEP portion of the legislation on the floor of the Illinois House of Representatives. He stated very specifically that it was intended to benefit only one person whom Rep. Molaro described only as "an IMRF [an employee qualified to enroll in the Illinois Municipal Retirement Fund] that used to work for the City of Chicago and it's just the opposite way, but he pays for everything and there's no cost to the state or city." On August 28, 2007, the SLEP Legislation became effective and the six-month window opened to transfer pension credits into SLEP. Less than three months later, on or about November 19, 2007, Sheahan applied to transfer the entire MEABF Service into SLEP.

1. Support for "Sheahan Provision" of SLEP Legislation

Rep. Molaro, a sponsor of the Legislation, did not mention Sheahan by name. However, he appears to be aware of Sheahan's identity from his detailed description. Although there is no

evidence that Sheahan directly contacted Rep. Molaro in regard to passage of this legislation, it nearly defies belief that Rep. Molaro would not have knowledge of the identity of the one person who benefitted from Legislation he sponsored.

The obvious questions presented are: (1) who sought Molaro's legislative action which benefitted only Sheahan; and (2) why was that action undertaken by Molaro? There is anecdotal evidence indicating that Thomas Sheahan himself made efforts to bring about the passage of the SLEP Legislation in order to benefit himself. A review of Thomas Sheahan's emails during the time he was Police Chief reveal communications with an individual with demonstrable ties to both Sheahan and Rep. Molaro. That individual is Niranjan Shah, an Oak Brook resident who is a successful businessman and CEO of Globetrotter Engineering. Evidence reveals Sheahan sought out Shah one month before Rep. Molaro introduced the "Sheahan Provision." In an email dated April 24, 2007, Sheahan asks Shah to meet in person for coffee. Sheahan and Shah apparently met the first week of May 2007. One month after this meeting, Rep. Molaro raised the 2007 SLEP Legislation before the Illinois House of Representatives on May 30, 2007.

2. Public Statements on the SLEP Legislation

On April 1, 2012, the *Sun Times* reported that Robert Molaro released a statement indicating he did not know Thomas Sheahan at the time the 2007 SLEP Legislation was crafted. Molaro said, "Any attempt to connect the sponsorship of this bill and my being part of the lobbying team for the village of Oak Brook is completely unfounded and absurd." Molaro also stated, "Neither Tom Sheahan nor anyone else on his behalf ever contacted me about this matter." Terrance Sheahan told the *Sun Times*, "None of the Sheahans ever had any contact with Rep. Molaro or any other member of the General Assembly requesting support for the bill." In

April 2012, when questioned by the *Sun Times*, Thomas Sheahan “wouldn’t say if or how he was involved in the origin” of the SLEP Legislation provision. In August, 2012, Thomas Sheahan told the *Sun Times* that he “never met or spoke to Molaro until after Molaro retired from the senate and had been hired by Oak Brook as a lobbyist.”

These public statements, while they might be accurate, omit mention of a possible middle man. Anecdotal evidence indicates that Shah and Sheahan discussed the SLEP Legislation provision in early May 2007 and in 2009 discussed recommending a lobbyist to the Village of Oak Brook, as the following section details.

III. LOBBYING CONTRACT WITH ROBERT MOLARO AND MICHAEL THOMSON

In April 2009, some Village Trustees and officials first considered hiring lobbyists to help Oak Brook obtain support/funding for construction projects and other matters from politicians, the Illinois Department of Transportation (IDOT) and others in Springfield. The initial idea to hire paid lobbyists apparently came from Trustee Elaine Zannis who, in late April 2009 shortly after the new Trustees were elected, met with the Village Manager Niemeyer and discussed the importance of hiring lobbyists to achieving the Village’s goals. This discussion occurred after the election but before the installation of Village Trustees in May 2009.

Although the Village had been using unpaid lobbyists, at least one Trustee expressed concern that those efforts were insufficient or ineffective in moving obtaining funding for Village projects. Hence, the new Village Board’s initiative to find paid lobbyists, specifically, to obtain \$7 million in funding necessary for the widening of the 22nd Street Bridge and funding for the Costco stop light project along with other 2009 Capital projects.

1. The Search for Springfield Lobbyists

Between late April and mid-May 2009 a “search” for paid lobbyists for the Village occurred. However, this “search” process was unofficial and apparently conducted by only one Trustee, Elaine Zannis, through undocumented Internet research, individual contacts, and interviewing.

Corroborating witness accounts indicate that during this time period Sheahan recommended hiring Robert Molaro as a lobbyist to at least one Village Trustee. Board Minutes from May 26, 2009, indicate Molaro and Thomson were highly recommended by Trustee Elaine Zannis to the rest of the Trustees, not all of whom had the opportunity to meet with Molaro and Thomson. Indeed, only Trustees Zannis, Aktipis, Moy, and Village Manager Niemeyer had occasion to meet with Thomson and Molaro in Springfield before their hiring.

It also appears possible that Sheahan recommended Molaro to John Craig who changed his opinion about whether the Village should hire Molaro as a lobbyist during this timeframe. In 2007 Craig initially asked Trustee Jeff Kennedy to find a lobbyist. Trustee Kennedy presented six potential lobbyists; Molaro was one of them. Craig’s response was, “Oh no. We don’t want [him].” Later, Terry Cornell and Danny Burke were selected and agreed to serve as unpaid lobbyists for a year and a half. In May 2009, when the new Board came in, Craig became supportive of hiring Molaro and his lobbying agreement bears Craig’s signature.

It is likely notable that Niranjana Shah called Michael Thomson in late April or early May 2009 and said “he had received a call from the Village of Oak Brook looking for recommendations on a potential lobbyist.” However, Michael Thomson did not know who on behalf of the Village had provided this information to Shah. It appears that Thomas Sheahan himself contacted Shah on behalf of the Village to recommend a lobbyist.

In early May 2009, Sheahan arranged for an in person meeting with Niranjana Shah. In an email exchange, Sheahan asked Shah for Michael Thomson's phone number and if it would be "OK to call him." Shah agreed to talk with Sheahan about Thomson on May 9, 2009.

On May 20, 2009, Village Trustees Zannis, Aktipis, Moy and Village Manager Dave Niemeyer traveled to Springfield to meet with lobbyist candidates including Michael Thomson and Robert Molaro. In Springfield, Village Manager Niemeyer and Trustees met with Michael Thomson and Robert Molaro in Michael Thomson's office. Thomson and Molaro discussed how Oak Brook would benefit from their lobbying efforts and contacts in Springfield and arranged for meetings with the Department of Transportation, which included Senator Dan Cronin, Representative Bob Biggins and the director and chief engineer of the Illinois Department of Transportation.

The week after returning from Springfield, the lobbying agreement was addressed at a Village Board meeting. At least one Trustee voiced concern about not participating in the Springfield trip or having had the opportunity to meet either lobbyist. However, on May 26, 2009, a Lobbying Services Agreement with Thomson Consulting and Molaro & Associates was approved by the Village for the cost of \$5,000 per month.

2. Lobbyists' Agreement and Efforts

In August 2009, after Molaro and Thomson began work as lobbyists for the Village, Thomas Sheahan recommended to them (without approval and consultation of the Village) that the Village hire Niranjana Shah's company, Globetrotters Engineering, to work on the traffic study, structural engineering and design work for the 22nd Street Costco project. The Village Manager expressed concern over the directness of communication Police Chief had with the

Village's lobbyists without consulting the Village. The Village suggested Globetrotters Engineering to Costco but Costco chose a different company, Metro Engineering, with whom they had a history and familiarity with the project.

In March 2011, Thomas Sheahan contacted Michael Thomson directly to ask for support for a particular pension bill without consulting or even informing the Village. Village Manager Dave Niemeyer responded and expressed concern that Sheahan communicated a personal request without checking with the Village first.

The Village paid \$5,000/month to Thomson and Consulting who in turn wrote a check to Molaro & Associates. The \$5,000 was initially divvied up as \$2,916.67 to Molaro and \$2,083.43 to Thomson. Subsequently, however, Thomson and Molaro agreed to a 50/50 distribution of funds at \$2,500 to each firm.

There is no evidence that any Village officials knew of Robert Molaro's connection to the 2007 SLEP Legislation when the Lobbying Agreement was approved in 2009. There is also no evidence of any consideration, personal benefit or any *quid pro quo* provided to any Village officials in return for approving Molaro and Thomson's contract.

CONCLUSION

This Report should be viewed as a fact-finding mission, not a levying of allegations against particular individuals, on behalf of the Village of Oak Brook. Only so much information can be discovered through investigative means without the benefit of the subpoena power or the resources of a governmental agency like the State's Attorney's Office or United States' Attorney's Office. However, information obtained for the purposes of this investigation and Report presents a chain of occurrences that have raised well-founded, serious issues of concern for Village officials and citizens of Oak Brook. Hopefully this Report will better inform Village officials and residents of how their locality and representatives operate, for better or worse, and highlights issues to be cognizant of in the process of future hirings, appointments, and contractual agreements. Fully vetting candidates for appointed positions or contractual hire should include in-depth conflict of interest checks and full, complete and timely discussion with all those Village officials involved and responsible for decisions on behalf of Oak Brook.

A Village has the responsibility to look out for its residents and act in their best interests, as Oak Brook has done since these matters came to light by identifying apparent abuses of the system by former Police Chief Sheahan who personally profited from a windfall pension legislation provision crafted to benefit him and, in turn, left a hefty financial burden on the Village of Oak Brook's shoulders.