

Minutes of the Regular Meeting of the Board of Trustees of the Village of Montgomery held in the Meeting Room at 133 Clinton Street, Montgomery, NY 12549 on Tuesday, May 3, 2016 at 7:30 pm.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury, Trustee Lindner, Atty. Dowd, Village Clerk Rivera-Stanley, Police Chief Walsh, DPW Supt. Nelson, Howard Garrett, Anna Frumes, Larry Frumes, Maria Beltrametti, Frank Tyrell, Lisa Lewis, Devin Lewis, Marc Devitt, Don Berger, John Severson, Nancy Severson, Shane Daley, Nate Daley, Esq. Stephen J. Gaba, Johanna Sweikata, Van Remenar, Jude Remenar, Ian Grzeszczak, Lin-Lin Deyenar, Jane Anderson

Mayor Brescia opened the meeting with the Pledge of Allegiance to the flag.

**RE: MINUTES**

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board approved the meeting minutes of April 11, 2016. Motion carried, 5-Ayes, 0-Nays.

**RE: REQUEST TO MEET WITH BOARD**

Howard Garrett gave a brief autobiography of himself; he started out as teacher in Brooklyn. Later on he went into material handling product sales, such as the chairs in the meeting room. The Village purchased them from him. In 1987, he came to the Village. Josephine Murphy was the Mayor, Steve was on the Board at that time. He remembers suggesting two things; the need for a Music Series and a parade much like Seacliff Long Island had then with various vendors and activities. The following year Montgomery began with theirs, it is now an annual event.

Mayor Brescia stated your suggestions helped spark the idea along with many others, such as Amy Bull Crist, Walden Days, to name a few that spear headed our celebration.

Howard Garrett reported the concert series is now in its 29<sup>th</sup> year. It has been a tremendous success. The only thing troubling over the last 29 years is the used piano that he purchased. Many of the performers that we have had were not happy. It has been used long enough and has served its purpose. After shopping around for a better piano, he found that the cost was out of reach. He then went to the Devitt family to ask for a donation. They offered a sum of \$3,500.00 for a piano thought to be of excellent quality. Again, back to shopping extensively for a piano an excellent instrument was found at a much higher price point. He suggested paying half now and the balance in a year; the owner was firm on a complete sale of \$6,500.00. Furthermore, he mentioned it to the Devitt family about the price. Much to his surprise the Devitt's' asked if the seller would take \$6,000 as a final sale. Marc and Ed Devitt have made a tremendous donation to purchase a piano for Grand Chamber Music Series. Thanks are beyond words. He expressed his feelings of how proud he is to be part the Village.

Mayor Brescia thanked Ed and Marc for their benevolent and generous donation. It is an amazing journey that Howard has brought to us through with the Chamber Music Series. You have put your heart and soul into the program along with Judy. He and the Board thanked Howard for all he has done.

Applause fills the room.

**RE: BOY SCOUTS OBSERVE A PUBLIC MEETING**

Mayor Brescia acknowledged Boy Scouts Devin Lewis and Boy Scout John Severson with BSA Troop 386 are present to observe a public meeting as a requirement for advancement in rank. He asked the other Boy Scouts present to state their names.

Ian Grzeszczak, Troop 386  
Kyle (not audable) , Troop 386  
Nate Daley, Troop 386  
Van Remenar, Troop 386  
Jude Remenar, Troop 386

Mayor Brescia welcomed them to the Board meeting, it is a pleasure to have you here.

**RE: ABSTRACT – NO. 04-2016**

**RE: DEPARTMENT REPORTS**

Police Chief Walsh reported on the train derailment that occurred yesterday. Prior to the meeting, he came from the site; they are awaiting tanker trucks to arrive. The first two should arrive at 9:00 pm this evening. They will start off loading the material from one of the tanker trucks. However, at that time the drivers of the tanker trucks will be over their hours. Once half of the off load occurs the drivers have to stay onsite. The tanker trucks will be there until the morning. The second two tanker trucks are expected to arrive at 6:00 am tomorrow. They will continue offloading the material, right the derailed cars, and finish the offload because of the location of the value. The rail lines have already been repaired. You might have seen yesterday, the repairs went well into the night. He feels it is unbelievable that it is done already.

He spoke with the Lieutenant of the environmental police and the DEC spill response unit, they actually have oversight of the transfer from tanker to truck. They will be maned there 24/7 until completion to ensure it is done properly and no spillage occurs. The initial determined cause of the derailment is operator error being speed. The crossing is at the crest of a hill. Even by line sight it hard to see. When you are talking of trains and the weights, the estimated speed was about 14 miles an hour. It does exceed the allowed speed; when he attempted to apply the brake as he attempted to approach the Factory Street crossing it caused the liquid content of the tank to move within the tank. The last two cars is what derailed.

Mayor Brescia thanked Police Chief Walsh for his speedy response with the Police Officers, the Fire Department, and multiple agencies responding. It is a relief, it could have been worse. Thankfully it is not the railroad tracks. He would like them to go over them in the Village

Police Chief Walsh stated the DOT inspection personnel were there. They said an inspector is sent out twice a year, it has always passed without any problems. He did not get a date of the most recent inspection. The company itself Middletown/New Jersey Rail also does an inspection weekly as well. In addition to the State inspection twice a year.

Mayor Brescia states there were no poisonous, toxic or harmful products. He is familiar with the reed system, with the pretreating of the roads.

Police Chief states one tanker was going to Messco and the other to a location in Campbell Hall. The FRA were notified but did not show up.

As a reminder this Saturday is the Bike Rodeo and the Orange County Traffic Safety inspecting child car seats. If you happen to be in the Village stop down to ensure your car seat is properly installed or up for any recalls. If it rains we will not be using the obstacle course outside. We hold lectures with a video, along with refreshments in the Senior Center also. The refreshments have been donated by all the businesses. There will also be a bike raffle. Furthermore, we will be participating in the click your ticket campaign which runs from May 23<sup>rd</sup> to June 5<sup>th</sup>, which is a nationwide initiative.

DPW Supt. Nelson reported receiving a report from Optimus Engineering, Greg Mapstone which has been forwarded onto Lanc & Tully on Monday. After speaking with Dawn from Lanc & Tully, it may be possible to add more than the two Holt wells to the sand filtering system plant. The thought is that one of the Jake Street wells also needs to be treated. We are looking at the cost comparison of weather to build another filtering plant or piping a connection to the Holt well filtering plant. We will see if we can justify the costs to do so.

Optimus Engineering has now handed everything over to Lanc and Tully for the Holt Well test Pilot program.

The new chips money just became available and there was an increase this year of forty two dollars. We have number of catch basins that need to be rebuilt, they are deteriorating due to the salt use. The guys have been working at it for the last two to three weeks. The rain has delayed them a bit and there is still more to do.

Mayor Brescia mentions what a great job Rick did on the grates, they look beautiful. Ed Bacon also did a nice job on the trash receptacles too. Please have them pick up the loose black top by the Airport to Chandler Lane. It should not take long and knows it the States responsibility. It does not look good.

Amber is leaving us on June 15<sup>th</sup>, and would like to talk about her replacement.

Deputy Mayor Scheels reports on Summer Recreation registration going well.

### **RE: INTRODUCTORY OF LOCAL LAW NO. 3 OF 2016**

Atty. Dowd stated the Introductory of Local Law 03-2016 Bed and Breakfast is a request to increase the hours at which they can serve brunch to 3:00 pm. The law was written for the hours to serve brunch from 8:00 am to 1:00 pm. He also speaks of the issue of special events. There were some interpretation issues about what that actually means. He proposed language to better to define it, which would be less controversial and or dispute what it means. He was in contact with Mr. Gaba who is here on behalf of the Frumes. The Frumes would like you to only address the extension of the hours and not the clear up the issue on the special events at this particular time. However, he would like to invite Mr. Gaba to speak to the Board on this topic.

He advised the Board against not addressing both issues now. A lot of time has been spent involving the Building Inspector on the determination of what is considered a special event and

the maximum number of persons allowable to host a special event along with the number of occupants and the staff. In addition, to the installation of grease trap as prescribed by the DPW Supt. Nelson. The Frumes were instructed to install a grease trap; and as of last Friday it was had not been done. DPW Supt. Nelson has informed me it is a sanitary code. All businesses that serve food to the public must have a grease trap installed.

He advised the Board to have them adhere to the sanitary code and address the issue of the special events before allowing the change of the hours. He furthermore, advised the Board to speak with the Frumes and Mr. Gaba their representative, this is the fair thing to do. Again, this is the introduction of the Local law.

Mr. Frumes stated with regard to the grease trap, we will do anything that is required. They were not aware of this requirement for the need of a grease trap.

Mayor Brescia asked Mr. Frumes to ensure that the grease trap is installed prior to Public Hearing and work it out with DPW Supt. Nelson and or Bruce. Not have a grease trap, it can cause backups.

DPW Supt. Nelson stated the grease trap has to be installed where the dishes are washed. He believes there was a spot in the West corner in the basement a small one can be installed. Bruce can provide you with the different sizes that are available. It is a benefit to the Business as well.

Mr. Frumes thanked the Board for listening to them. He further states that Mr. Gaba would like to address the Board about the special events. He is confused by all of this whereas, Mr. Gaba has a much clearer view on the special events.

Mr. Gaba stated the adopted Local Law allows the Bed and Breakfast to hold parties at the request of guests with a limit of forty people. This is all that they want to do and continue doing so. The feeling is that is not need to change the local law to regarding the special events. Unfortunately, we had an issue previously when the Montessori School wanted an event at the Borland House. The information for this particular event was misinformed. Fortunately, it was all resolved after meeting with Bruce, Kevin and Board members. They took a look at the Local Law and the problem with it is, that it limits the type of party that can be held at the requested of a guest. It states the event has to be personal to the guest such as Birthday Parties and alike. For example it will not allow for a holiday party. If he were to stay at the Borland house and host a Birthday Party for forty people, it is going to have the exact same impact if it were an Easter Party for forty people. He does not see why the occasion should matter, a party is a party; there should not any distinction. A little bit did come up, when we were dealing with Montessori School event. It was weather the party that is being held has to be for a natural person, an individual or if it can be requested by an individual on behalf of the organization. In that case, it was the Montessori School staying at the Borland, not for friends and relative but for guest and officers of the Montessori School with no more than forty people. It went off without a hitch.

Mayor Brescia stated when the event is advertised to the general public competing with the local Restaurants and Taverns that advertise for certain events with specific hours. This is where the conflict occurs. Having a private event is not the problem at all.

Atty. Dowd said it goes beyond that. When the Frumes filed their petition, it was clearly an intent to allow certain activities, one of which was to serve brunch to the general public and not just to the guests. During his search, he found that there is no Bed and Breakfast that allows the public to engage in eating brunch from a bed and breakfast; it is usually for the guests. Ok, that is what you wanted to do, limit it to twenty people from the hours from 8:00 am to 1:00 pm. The issue of the special event was always that someone who is renting a room at the Bed and Breakfast has an

occasion that they want to celebrate. The Board came up the number forty people to be the maximum allowed.

There seems to be in some cases going around that intent by having people reserve a room or rent a room and then proceed to having a special event. In case, which could be a fundraiser, or any number of other things. He believes that this was never the intent and or the Frumes intent when they applied. The occasions such as a wedding had been mentioned. Do you want to have it that this particular business or any other Bed and Breakfast in the B1, B2 zone could then rent out a room just so they can have a special event which is basically a fundraiser? Or a Corporate, or a Holiday Party? It is getting closer and closer with the hours of 8:00 am to 3:00 pm to a restaurant. It is not a restaurant, it does not meet the requirements of a restaurant with the regard of off street parking and so forth. He is concerned where this Law is going and the fact that it seems there are ways the intent could be circumvented from the initial intend. For instance, with the latest event with a Tea party going on where as there may be as many as ninety eight guests. What they are going to do is rent a room and break it up into four separate seating's to avoid the forty person rule. Again, that is what I was told. This does not seem to any way near the intent or what the law was. He tried to propose and close up that gray area that seems to be more than once jumped into to hold these type of events. The more people you have of course the more traffic and everything else. None of this is being looked at and therefore, this is why this proposed as it is. He does not recommend that you not try to close the gap.

Trustee Hembury said this will be forever until another Board changes it. What happens when you sell the Business?

Atty. Dowd stated is will apply to any Bed and Breakfast in the B1, B2 zone, at the moment you only have one.

Mr. Gaba stated the Frumes have no problems working out what would be mutually acceptable on special events. Obviously, the Law is up to the Governing Village Board; you adopt what you would like. From there prospective, they do not like this particular law set before you today. It places restrictions on the operation of a Bed and Breakfast. What they would like you to do is to move forward with the change in hours. We will work with the Board on the appropriate restrictions for the special events. Another possibility is for them to give up their special events permit for a Bed and Breakfast as such to have a Bed and Breakfast with a restaurant with in it. Come before the Village Boards obtain the appropriate approvals and limitation on hours. Then the special events would not be an issue. They would be able to operate as any restaurant would. There are other possibilities besides this law. They will go before the Planning Board to amend the special permit once the hours have changed. They are anxious to move forward with this to have the Bed and Breakfast up and operating with these hours.

Mayor Brescia stated he is not opposed to small weddings and the hours changing. We still consider it brunch. We need to go back to the drawing board on this, it needs to be discussed and hashed out more.

Trustee Hembury stated the people would have to have control.

Deputy Mayor Scheels also stated the hours are not a concern. The special events is something that a work session may be in the best interest.

Mr. Tyrell stated you have to have an occupancy code as well as be in compliance with the state fire codes, in addition to the building code. You cannot have a Bed and Breakfast and decide to

have fifty people. You have to alter it so you have an egress, exits, and signage. If you are opening up to almost a restaurant capacity you will need an occupancy code and fire protection equipment.

Atty. Dowd stated the Building Inspector is having to address these special events that come to his attention. He recommends the Board not separate the two items as described in this Local Law. The occupancy rate for the Building differs from the special event occupancy rule.

Trustee Lindner stated he is not opposed to the special events so as long as the safety and occupancy is being adhered to at any given time.

**RE: AMEND THE PROPOSED LOCAL LAW TO REDACT THE REFERENCES TO THE SPECIAL EVENTS**

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board amended the proposed Local Law to redact the references to the special events. Motion carried, 5-Ayes, 0-Nays.

**RE: SET PUBLIC HEARING FOR THE REDACTED PROPOSED LOCAL LAW**

Moved by Trustee Andolsek, seconded by Trustee Hembury, the Board set the Public Hearing for the redacted proposed Local Law on May 17<sup>th</sup> at 7:20 pm. Motion carried, 5-Ayes, 0-Nays.

**RE: ADOPT A RESOLUTION AUTHORIZING VILLAGE CLERK AND DEPUTY MAYOR TO BE AUTHORIZED SIGNERS AND CONDUCT FINANCIAL BUSINESS RELATED TRANSACTIONS**

Moved by Trustee Andolsek, seconded by Trustee Lindner, the Board adopted a resolution authorizing the Village Clerk Monserrate Rivera-Stanley and the Deputy Mayor JoAnn Scheels, acting on behalf of the Village of Montgomery to be authorized signers and conduct financial business related transactions. Motion carried, 5-Ayes, 0-Nays.

**RE: EVENTS**

Grand Chamber Music Series Concert – Sunday, May 1, 2016, 3 pm at the Montgomery Senior Center 36 Bridge Street presents Eric Grossman – Violin and Susan Kagan – Piano

Monday, May 30<sup>th</sup>, Memorial Day Parade, Line up is at 10:30 am at the Orange County Firefighters Museum on Wallkill Avenue and steps off at 11:00 am.

Walden Savings Bank Grand Opening Celebration is on Friday, May 13, 2016 from 4:00 to 6:00 pm

Walden Savings Bank hosts a Community Shred Day on Saturday, May 14, from 10:00 am to 2:00 pm

Village Hall will be closed on Monday, May 30<sup>th</sup> in Observation of Memorial Day

**RE: PUBLIC PORTION**

Marc Devitt expressed his concerns regarding a foil request in which the Village Clerk described using a third party to download the recorded minutes to a thumb drive.

Mayor Brescia stated we will look into another means more reasonable to perform this task.

Mr. Berger expressed his thoughts about tentative budget tax rate of which has caused a staff member to leave.

Mayor Brescia stated he was assured the tentative budget was under the cap. He historically has reviewed the tentative budget closely. In this instance, he and the Board trusted the Treasurer was thorough. We were all assured of it just before the meeting. We have also stated moving forward a budget work session will be held. Public hearings are held for that reason. The Deputy Mayor and Trustee Lindner with several staff members did a lot of work on the tentative budget. Thanks to the Department Heads for coming making the necessary cuts to bring us under the cap. The Local Law to exceed the tax cap is needed to be done prior. It does not mean that we will exceed the cap. We do not want to cut services. We have one of the safest Villages around.

#### **RE: EXECUTIVE SESSION**

Move by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board entered into Executive Session at 8:45 pm under the Public Meetings Law §7 (F) to discuss matters leading to the appointment of a particular person. Motion carried, 5-Ayes, 0-Nays.

The Board of Trustees invited David A. Griffith into the executive session at 9:01 pm for an interview and exited the Executive Session at 9:20 pm.

In addition, the Board of Trustees invited Peter Sullivan into the Executive Session at 9:21 pm for an interview and exited the executive session at 9:37 pm.

Moved by Trustee Hembury, seconded by Trustee Andolsek, the Board exited Executive Session at 9:39 pm. Motion carried, 5-Ayes, 0-Nays.

#### **RE: APPOINTMENT OF THE VILLAGE TREASURER**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board appointed David A. Griffith as the Village Treasurer effective May 23, 2016 at the starting salary of \$42,000 a year with a one year probationary period at 9:42 pm. Motion carried, 5-Ayes, 0-Nays.

#### **RE: APPOINTMENT OF A TRANSITIONAL TREASURER TRAINER**

Moved by Trustee Hembury, seconded by Trustee Andolsek, the Board appointed Peter Sullivan as the P/T, Village Transitional Treasurer trainer at the rate of \$20.00 per hour. Motion carried, 5-Ayes, 0-Nays.

#### **RE: DEPUTY VILLAGE CLERK SALARY**

Moved by Trustee Andolsek, seconded by Trustee Hembury, the Board of Trustees approved a salary increase for the Deputy Village Clerk Tina Murphy in the amount of \$1.00 per hour effective immediately. Motion carried, 5-Ayes, 0-Nays.

#### **RE: ADJOURNMENT**

Moved by Trustee Andolsek, seconded by Trustee Hembury the Board adjourned the meeting of May 3, 2016 at 9:52 pm. Motion carried, 5-Ayes, 0-Nays.

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