

Minutes of the Regular Meeting of the Board of Trustees of the Village of Montgomery held at 133 Clinton Street, Montgomery, NY 12549 on Tuesday, **January 5, 2010** at 7:30 p.m.

PRESENT: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury, Trustee Roepe; Atty. Dowd; OIC Luffman; DPW Supt. Nelson; Johanna Sweikata, Mike and Ann O'Brien, Matthew O'Brien and friends; Mark & Deborah Palczewski, Julie Mazza, Judy Noorlander, John Ingrassia, Larry Cuarsi, Robert Hayes, Frank Tyrell, Amy Doce, Richard Neidermeyer, Mike Steed, Lee McLean.

**RE: MINUTES**

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board approved the minutes of December 1, 2009 with Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury voting AYE and Trustee Roepe abstained. Motion carried.

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board approved the minutes of December 15, 2009. Motion carried 5-AYES, 0-NAY vote.

**RE: ABSTRACT NO. 01-10**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, all bills listed on ABSTRACT No. 01-2010 were audited and approved for payment, subject to two trustees final review, with \$287,628.66 from the General Fund, \$10,809.84 from the Water Fund, \$20,103.12 from the Sewer Fund and totaling \$318,541.62. Check Nos: 37309-37324; 39800-39882. Motion carried 5-AYES, 0-NAY vote.

Treasurer Benedict reported a CASH BALANCE for the month ending December 31, 2009, as follows: General Fund \$1,658,783.10, Water Fund \$196,726.02, Sewer Fund \$113,749.32.

**RE: REPORTS**

Mayor Brescia acknowledged a letter from Mr. DeGroat about the dog park in the vicinity of the little league field and the possibility of fly balls going over the fence into the dog park. DPW Supt. Nelson was asked to look into installing three or four 24 foot polls with a net to prevent the fly balls from going into the dog park. DPW Supt. Nelson advised he would like to check with Montgomery Sporting Goods to see what they use for the paintball fields and report back to the board. Mayor Brescia also reported four or five residents have contacted DPW Supt. Nelson with their concerns with the new use of recycled pulverized glass that is mixed with the salt and used on the streets. He does not like the looks of it on the side of the street but there are advantages with the cost and environmental performance. DPW Supt. Nelson advised what is being used is crushed mixed glass that is tumbled to take the sharp edges off and mixed with sand. Most of it is less than one-eighth inch in diameter. It has been used in PA for the last five years. There is plenty of literature available if anyone would like to read about it. It is environmentally

friendly and will not pollute the wells. It is more economical than sand. The Village of New Paltz has been using it about three years. The Town of Highland and Highland Falls has been using it about three years. The Village of Maybrook has been using it too. Mayor Brescia added the D.P.W. sweeps it up in the spring and asked if it was safe to walk on. DPW Supt. Nelson advised it is safe to walk on and it appears to be safe. There is a sample of the crushed pulverized glass in the Village Office if anyone would like to see what we are using. Mayor Brescia stated he will put something in the newsletter to make the people aware of the new ice control material that is being used on the roads.

Mayor Brescia reported he met with DPW Supt. Nelson, the Village engineer and Russell Budd, grant consultant to discuss possible Stimulus funding available in 2010. Also, Trustee Roepe and Angela Demaris have two donations, but one of the donors requested the park be named after there business. We cannot do that so Trustee Roepe will be working on a sign. Trustee Roepe said the donor was looking to change the name of the park and confirmed he is working on some kind of sign for the park.

**RE: DPW – CHANGE IN TITLE**

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board approved for Michael Pagnotta to be promoted from Laborer A to MEO II effective immediately at the salary in the Memorandum of Agreement between the Village of Montgomery and the Transport Workers Union of America, A.F.L. – C.I.O. and its local 225, June 1, 2009 – June 1, 2014. Motion carried 5-AYES, 0-NAY vote.

**RE: VILLAGE GENERAL ELECTION – TUESDAY, MARCH 16, 2010  
REGISTRATION DAY – MARCH 6, 2010**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board adopted a Resolution (ATTACHED) stating Registration Day will be March 6, 2010 - between the hours of 12 Noon and 5:00 p.m. at the Village Hall, 133 Clinton Street and the March 16, 2010 Village General Election polling place will be at the Senior Center, 36 Bridge Street between the hours of 8:00 a.m. and 9:00 p.m., and appointed the Election Inspectors as follows: Gertrude Green, Chairperson, Inspector Election Inspectors Grace Weeden, Cynthia Byrnes, Rose Conroy and Richard Spies as alternate with Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury voting AYE and Trustee Roepe abstained. Motion carried.

**RE: WRM - COMPENSATION CARRIER**

Moved by Trustee Andolsek, seconded by Trustee Hembury, the Board approved the 2010 Workers' Compensation Claims Runoff Management Agreement to perform workers' compensation claims runoff management services for the Village for the period of January 2, 2010 to December 31, 2010 for claims that arose prior to January 1, 2008 when the Village joined the New York State Municipal Workers' Compensation Alliance (WCA). Motion carried 5-AYES, 0-NAY vote.

**RE: SENIOR CENTER**

Deputy Mayor Scheels reported she met with Director D'Angelo to discuss some of the concerns brought to the Board by Robert Hayes. We are working on more programs for the seniors. The senior center is a beautiful building and we need to use it more. Maybrook is open only one day a week. Monroe has a full program and a lot of good information. The issue with the card playing is not an issue because if the group needs to get into the center when it is closed, the Village can work out some way to get into the building. I have a whole page of information and have only hit the tip of the iceberg. Trustee Hembury said the holidays have kind of held us up from getting information. Robert Hayes suggested a questionnaire be circulated to people in the New Horizons Club to ask them what they would like to see and thanked the Board for looking into it. Deputy Mayor Scheels responded saying that is one of the things on her list and added that she is diligently working on it. Mayor Brescia advised we want to see more programs for the seniors and mentioned the fact that Monroe and Newburgh have larger budgets to work with than the Village. But, we will continue to work on it. Judy Noorlander mentioned being a senior director at Wesley Hall when it opened and they won a state award on the number of programs and that she would be willing to work with the Board on getting more programs for the seniors. Deputy Mayor Scheels stated she would appreciate any help as it is a big undertaking.

**RE: PUBLIC PORTION**

**Frank Tyrell** (Olsen Ct.) asked where they are on the list from last year to have Olsen Court repaired and suggested the possibility of getting some stimulus money. He mentioned having funds available to build a dog park and Mayor Brescia advised that project was done because of getting over \$60,000 in donations and the Village putting in only \$15,000. We are very confident we will get donations in to cover that. DPW Supt. Nelson said he is working on the budget for the next fiscal year. A survey of the worst roads will be done to determine which ones must be fixed first. Mayor Brescia stated we will look at Olsen Court to see what can be done.

**Anne O'Brien** (218 Tompkins Rd.) read the attached letter, without malice, of her observation of what has been going on concerning the Central Hudson transmission line upgrade in the Village.

**Julia Matthews** (217 Tompkins Rd.) read her letter (attached) concerning the Central Hudson transmission line upgrade in the Village.

**Judy Noorlander** (97 Union St.) also read a letter to the Board about the process taken by the Village concerning the Central Hudson transmission line upgrade project.

**Frank Tyrell** (128 Olsen Ct.) referred to the Code of Ethics adopted in 1991 and read SECTION 1, Legislative Intent, second sentence and SECTION 3, Standards of Conduct (E) Use of Position to Achieve Preferential Treatment. He understands the power lines on Washington Avenue were moved 10 or 15 feet toward Angelo Drive. Why was it

possible to move the line there but not Tompkins Road? It seems like preferential treatment. Planning and zoning charges are made and it seems nobody ever knows what is going on and if they do it does not matter what is brought up at the public hearings . . . seems there is no communication. Maybe you can put more information in the newsletters about things like this. Mark Palczewski agrees.

Trustee Hembury advised he spoke with Tom Steed and feels this is how it all got started. Mayor Brescia said he feels 15 feet on Tompkins Road probably would not have made much of a difference and understands everybody's concerns. Trustee Roepe, Trustee Hembury and my self met with Tom Steed, with Central Hudson representatives and with the School Board several times. We spent a lot of time trying to come up with a solution. The resolution the Board adopted in January and rescinded thereafter was done a month after the school board had already voted not to allow access through their property and thus the proposed green line was never going to happen unless the school board entertained it which they did not. The Planning Board had a vote on it and the Village Board did not. The underground line was discussed thoroughly and the Board had to consider if they could win the case if we went in that direction. We decided not too after hearing from our attorney, our engineer, Central Hudson and many other people who too thought we could not win this lawsuit. If we thought we could have won, we would have gone in that direction. Judy Noorlander questioned as a legislator if he could have taken it to County and asked them to put it underground.

Mayor Brescia responded saying he could have done that but stated he does not know what good it would have done because we have gone to the State, Senator Larkin's office, Assemblywoman Calhoun's office . . . Trustee Hembury advised he wanted the line buried and has made comments to affect. Pictures of transformers exploding in front of a house and causing a fire in Sullivan County were shown to Central Hudson and they were like ahh where did this happen. Judy Noorlander still feels we should have taken Central Hudson to court to have the lines put underground. Every child's life is worth more than a million dollars. These lines affect the entire Village not just the area where they go through.

Robert Hayes asked if the Village Planning Board reports back to anyone after they had voted on a project. Mayor Brescia stated they are an independent board and the Village Board cannot tell them how to vote. This Board only appoints the members.

John Ingrassia expressed the necessity of doing an environmental impact study not just at the Village level. This Board could put a resolution together asking Central Hudson to do this before any lines are moved. Mayor Brescia asked Atty. Dowd if that could be done. Atty. Dowd responded saying the County can be asked but they may not have any jurisdiction there either. But, the problem is the Town of Montgomery already did an environmental study on this under SEQRA. Trustee Roepe said the Town of Montgomery decided to cancel a baseball field in Benedict Park based on an EIS and finds it very hard to believe they would not find something wrong with this project through the EIS. John Ingrassia said he would like it on record the County would not do it. Then it could be given to Central Hudson to put them on record as not wanting to do it.

Atty. Dowd added the Town of Montgomery Planning Board held a public hearing on the EIS noticing that the Village of Montgomery was one of the involved agencies. Trustee Roepe asked if it was the Village's Planning Board opinion if that they thought they were kept in the loop with the Town's SEQRA' process? Atty. Dowd thinks the answer to the questions is no because what was being analyzed by the Town Planning Board when the Village deferred to them was basically taking the line out of the Village all together. That was how the process started. It was going to have no affect on the village. That is why the Village deferred to the Town. Then as the Town studied it after holding numerous hearings to go through the environmental process with Central Hudson, the Town concluded there would be no impact. Trustee Roepe stated sometime after January 2009 the line got back into the Village and asked would the Village Planning Board have a say in the environmental impact study? Atty. Dowd said probably not. The Village Planning Board could not do anything until the Town acted on the EIS. Then the Town was evaluating the impact of the line. Planning Board Member Lee McLean said he recalls the process and after it was voted to go back into the Village, the Village should have the option if they so choose, to communicate to the lead agency their concerns. Mayor Brescia said they did adopt a resolution to look at an alternative line. Atty. Dowd said the Town did notify all the villages of the public hearing and whoever wanted to attend could have attended. Trustee Roepe asked if the Town ever discussed with the Village Planning Board whether or not you were being notified or contacted after January as to the status. P/B Member McLean said pretty much after the first meeting the planning board referred it back to the Village Board. None of us wanted it where it is. Honestly, I feel quite bad for you as it was a tough decision to make. The only reason I am here is to see it done correctly and if there is another alternative, please by all means go for it. But, we made a decision based upon what we had.

Judy Noorlander mentioned the first meeting when Central Hudson representatives' attended a Board of Trustees meeting they had a map with several different options. Their comment at that meeting was they did not expect the line to go through Montgomery and therefore did not expect any problems. From there, we get to Tompkins Road. How did that happen! Mayor Brescia said with our initial meeting with Central Hudson two years ago, we told them we wanted it out of the Village. Frank Tyrell advised there needs to be more communication from the Board and suggested putting more up-to-date information on the web and in the newsletter well ahead of time. This way everybody has input before a decision is made. Mark Palczewski agrees saying most people commute to work and don't find out what's going on until it's too late. So, we put our trust in our elected officials to look after us. Julie Mazza agreed. Tom Steed also feels any changes in the meeting dates, public hearings and dynamic Changes in our government should be put on the web page to keep the people fully informed on what is going on in the Village.

Mayor Brescia stated we will try to put more information on the web site as well as in the newsletter and the cable informational channel. Most of us do not recall the line going through Tompkins Road being a transmission line until it came out by Central Hudson. Trustee Hembury assumes this has been done by Central Hudson in other communities too. It ends with all of us fighting and they get what they want done in the end.

Matthew O'Brien (son of Mike and Ann O'Brien) and some friends spoke to the Board about what they feel are happening in their neighborhood. He gave the Board a picture of his friend and said they are unhappy because they were friends all their lives and will have to move and not be able see each other anymore. Mayor Brescia reminded Matthew and his friends they will always be friends and said he too feels bad about what is happening in their neighborhood. The Board will try and do their best and hopefully something can be done.

Ann O'Brien said if it were not for Tom Steed, we would not have known what was going in our neighborhood. Trustee Hembury stated he and his wife are around the Village all the time. People seem only to come up to speak with you when there is something happening in their neighborhood. It's tough. You think people are united . . . and then you hear things that seem to use the analogy of divide and conquer and you get what you want. This probably is not the first time Central Hudson has done something like this. All in all, Central Hudson is a good company, they respond fast to a situation, but with what is going on now, they sent someone like Billie Maise as their pitchman. I don't think they expected Tom Steed to know as much as he did in this matter.

Ann O'Brien asked the Board for an explanation for a comment by the Planning Board that it is all about money, actions by a member that was not present for several months and how the public was treated at the last planning board meeting. Deb Palczewski feels a member on the Planning Board should have sought the advice of the Board of Ethics before voting. John Ingrassia advised unfortunately this process started out on a bad note not being represented properly or the facts were not known. It then ended the other night in the same vain after all the pain we put forth in addressing the boards in trying to get our arguments heard. To end that way is a sticking point. But, he asked for an answer from this Board on challenging the EIS that was done by Central Hudson. Atty. Dowd said the Town Planning Board as the Lead Agency did a proper study and analyzed all the issues along the line and made their findings. Trustee Roepe advised he still does not understand to this day two things. First, as everyone said the line was suppose to be outside of the Village. By law they are required to notify everybody within 300 feet of the project which was not a lot of people on Tompkins Road because the original skew of the project would have only hit a couple of people on the edge of Tompkins Road. After the line shifted back to the Village, those subsequent people should have been notified on Tompkins Road. That could be checked out. And second, the Village Planning Board, if it had the right to ask, could ask to participate with the lead agency as to whether or not the developer should have done an EIS. They should have at least asked but I don't know if that would be in my purview to ask for that. But, the Planning Board could probably ask for an EIS to be done. I'm in favor of asking but I do not know if we are on legal ground to that. Maybe the Village Board could ask Central Hudson if they would like to do an EIS. John Ingrassia asked if Tompkins Road was even on their plate when they gave a negative declaration and urged the Board to sent a letter to Central Hudson asking if they are willing to do an environmental impact study, maybe the Town Planning Board should be included. That way you would have all your signoffs. Mayor Brescia said he will look into what course of action can be taken to see if it would be possible.

Mayor Brescia then advised the Board has listened to the tape from the Planning Board meeting held on December 27<sup>th</sup> and Planning Board Member Romano will be asked to meet with the Board on January 19<sup>th</sup> in executive session to discuss the concerns that were brought to this Board's attention.

**RE: EXECUTIVE SESSION**

Moved by Trustee Andolsek, seconded by Trustee Hembury, the Board entered EXECUTIVE SESSION at 8:50 pm under Public Officers Law §7(e) to discuss the PBA Union Contract with OIC Luffman, Atty. Dowd and Vlg. Clerk Thompson in attendance. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Roepe, he Board went out of EXECUTIVE SESSION at 10:14 pm. Motion carried 5-AYES, 0-NAY vote.

**RE: ADJOURNMENT**

Moved by Trustee Hembury, seconded by Trustee Andolsek, the Board adjourned the meeting at 10:16 pm. Motion carried 5-AYES 0-NAY vote.

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Village Clerk Linda L. Thompson