

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, **April 20, 2010** at 6:45 p.m.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury, Trustee Roepe; Atty. Dowd; John Luffman; Officers Capolupo, Wippel, Goff, Gallo, Young, Wieringa, Watson, Phillips, Olivio, Coscette; Marilyn Smith; Cory Lewis; Deborah Palczewski; Johanna Sweikata; Richard Kurisko; John Ingrassia; Ann O'Brien; Stacey Hillman; Jimmy Miller; Judy Noorlander; Clare Pahucki; Richard Kurisko; Nancy Michaels; Frank & Lisa Tyrell; Sarah Roepe; Colleen Kiernan; Robert Kiernan; Donna Suydam; Robin Dambrot; Joe DiBello; Jill Schmitt; Richard DeGroat; Margaret Rose; Leeanne Minieri; Emilio Galanda; Cindy Rosen and Wallkill Valley Times reporter, Times Herald Record reporter.

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

**RE: REQUESTS TO MEET WITH BOARD**

**Richard Kurisko** (member of the Montgomery Business Association) updated the Board on the meeting they attended at the OC Citizens Foundation and read the attached letter. They recently attended the Citizens Foundation seminar. The seminar was useful in trying to formulate ideas for preserving our historic downtown district. A long term plan should be created. The overall focus should be to keep one defined business district and suggested signs identifying the business district and the businesses. We should be thinking about what type of businesses we want to draw into Montgomery. Diversity in businesses promotes walk ability within the Village by placing signs in the walking trails and by the new dog park. It's also important to remember that with loss of local businesses comes the loss of values of the homes in the community. The MBA suggests the Village Board and Planning Board to take a walking tour of Warwick which is a municipality that has success in inspiring innovation, culture and education the their historic village. Warwick's planning board could be beneficial in formulating our own plan for the future. So, it is the recommendation of the MBA to see some signs put in place to create some continuity within the downtown area, by putting signs at the corner of Clinton and Bridge Street directing people down towards Veterans Park, the Dog Park and walking trails. Historic type signs could also be placed by the dog park directing the people to the museums and the business district because they come to the park from out of town and do not realize all the nice businesses that are in the Village of Montgomery. Of course the signs would be historic.

Mayor Brescia and the Board liked the sign suggestions for the businesses. The Village does have historic-type business signs on Spring Street for a couple of businesses. We talked about adding more business signs but at that time we did not receive much interest. What we can do is put up signs directing people to our parks. Maybe the Village could subsidize the business signs if the business shows an interest. The use of carriage houses is not new idea. It was looked at quite awhile ago and there were concerns with parking at

the time, but we could look at it again. Maybe on a Saturday in June, some of us could take the walking tour of Warwick.

Stacey Hillman owning a business toward the end of Clinton Street said direction signs are important because a lot people are unaware there are businesses down there. She also recommended a community bulletin board by the dog park because a lot of people not from the village visit the park. She also suggested flexible zoning to allow for diversity of businesses.

Mayor Brescia said it sounds like those who attended the seminar got a lot out of it. We still have not had the time to go through the law for bistros but we will work on it. The Board is still working on the AHRB guidelines and we should have something in place soon.

**Cindy Rosen** discussed the possibility of adding another business in the old Alpac Mfg. building, which is now occupied by three businesses. They are a new growing company looking to rent 8,000 sq. ft. at 181 Boyd Street next to Game Time. They sell peanuts, nuts and trail mixes at local convenience stores. They will be hiring new people to work for them. There will be four or five large trucks per week with the maximum of six trucks. A plan was shown to the Board. It is a clean and quiet operation with no emissions. She asked how long it would take to get a permit if they were to take this space as they are under a time crunch and need to be here by the middle of May.

Mayor Brescia asked Vlg. Atty. Dowd what they will need to do.

Vlg. Atty. Dowd said he suggested to the building inspector to get them to the planning board this month. After Alpac left the watch company (Game Time) which was given a waiver because they are small business uses in that building. But since that time there were two other companies that went in. They may be perfectly fine, but after hearing about the tractor trailer uses, it may change.

Mayor Brescia said the business would be located on a designated truck route.

Vlg. Atty. Dowd responded saying he understands that but the fact of filling the building with multiple uses that the Planning Board should at least see the plans to get a different point of view on the project. We just want to make sure the Village has an understanding on what is going into that building.

Mayor Brescia recommended they get on the Planning Board agenda. Cindy Rose mentioned the business is looking at another place in New Windsor so she is pushing to get the business in Montgomery.

Mayor Brescia advised it sounds like a good business and we would certainly like to see more businesses come to Montgomery.

Cindy Rosen thanked the Board and left the meeting.

**RE: LOCAL LAW I-1 of 2010 “VEHICLE & TRAFFIC”**

Mayor Brescia advised action will be tabled on Local Law No. I-1 of 2010 entitled “Vehicle & Traffic” proposed stop sign on Goodwill Road (east and west) at the intersection of Roosevelt Avenue. Concerns have been expressed by several residents. DPW Supt. Nelson will look into other options like the possibility of speed humps. Trustee Hembury suggested painting the speed limit on the road and he will speak to DPW Supt. Nelson about it.

**RE: BID FOR STP OPERATION & MAINTENANCE**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board set a bid opening on May 3, 2010 at 2:00 pm to accept bids for the Operation & Maintenance of the Sewer Treatment Plant & Pump Stations. Motion carried 5-AYES, 0-NAY vote.

**RE: MONTGOMERY MANOR HOUSING PILOT AGREEMENTB**

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board approved Montgomery Manor Housing’s request for future PILOT Fees to be paid in equal monthly installments subject to approval by the Town of Montgomery. Motion carried 5-AYES, 0-NAY vote.

**RE: POLICE DEPARTMENT RESIGNATIONS**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board accepted the resignation of Police Officer Fredrick Slanovec effective immediately. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Roepe, the Board accepted the resignation of Officer-in-Charge John Luffman effective April 15, 2010. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Roepe, the Board accepted the resignation of Officer George Lewis effective April 15, 2010. Motion carried 5-AYES, 0-NAY vote.

**RE: BARKING DOG COMPLAINT**

The Board acknowledged a barking dog complaint from a resident. Mayor Brescia advised the Police Department has responded to the complaint. The scope of the local law is very general when it refers to a complaint of this nature. Vlg. Atty. Dowd was asked to look into updating the local law to help with complaints for barking dogs.

**RE: NEW ACCOUNTING FIRM**

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board accepted the proposal submitted by the accounting firm of Vanacore, DeBenedictus, DiGiovanni & Weddell to prepare the Village of Montgomery’s Annual Year-End Report. Motion carried 5-AYES, 0-NAYS.

**RE: POLICE DEPARMENT**

Mayor Brescia and the Board acknowledged a letter from the principals of the Montgomery Elementary School informing the Village Board of the partnership the school has with the Police Department. The department has been a great support to the staff, students and parents to ensure the safety of their schools community.

**RE: OC ASSOCIATION OF TOWNS, CITIES & VILLAGES**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board approved attendance of the April 27<sup>th</sup> meeting at Osiris County Club. Motion carried 5-AYES, 0-NAY vote.

**RE: BIKE RODEO**

The annual bike rodeo for all ages is sponsored by the Police Department Bike Patrol and will be held May 2<sup>nd</sup> at Veterans Memorial Park. Refreshments, raffles, contests, prizes, finger printing and minor bike repairs are planned.

**RE: BUDGET & ADJUSTMENTS**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board authorized Treasurer Benedict to make budget transfers as follows:

<u>Amt.</u>	<u>From:</u>	<u>To:</u>
25.00	1410.130A (P/T Clerk Pers Svc)	1450.405A (Election Inspectors/Custodians)
46.33	1910.430A (Spec Items Liab Ins)	1970.000A (Bank Fees)
66.39	7510.400A (Historian Contractual)	7510.110A (P/T Hist Clerk Contractual)
83.40	(Police & Fire Retirement)	9055.800A (Disability Insurance)

AND:  
Increase both 3065A (court income line) and 1110.201 (court grant expense line) by \$2,297.72 with Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury voting and AYE and Trustee Roepe abstained. Motion carried.

**PUBLIC PORTION**

Frank Tyrell (Olsen Ct.) asked why the Board approved raises in the police budget from \$408,900 to \$500,328 to \$573,000 this year when they are a part-time police department.

Mayor Brescia explained the money was budgeted for the police contract which has not happened yet and that goes over to surplus. For clarification purposes, let me read something from the treasurer - When a budget is prepared, those involved have to come up with their best estimates for both revenue and expenses. If revenues turn out to have been over-estimated, and/or expenses were under-estimated, that means the surplus for the next fiscal year will be less than anticipated. If, however, revenues were under-estimated (i.e. more was received than anticipated), there is a larger surplus for the following fiscal year. So, we anticipated settling the police contract and budgeted for that event to occur in the current fiscal year. It has not happened, and will likely not happen by fiscal year-end. That money, then, as is the case with all expense lines which have not been depleted, is in next fiscal year's anticipated surplus, as is all revenue above what we anticipated. Having a surplus which we can use the following year takes much of the burden off the taxpayer. To balance the budget, we have: revenue + surplus + taxes = expenses. Obviously, a change in any of those variables affects what is expected of the other variables.

Frank Tyrell still feels there were increases and they seem excessive. Deputy Mayor Scheels said the money set aside for the contract goes back into the budget as surplus until the contract is settled.

Mayor Brescia explained what monies is not expended goes back into the budget the following year whether it is put in contingency or we put it in a line. It should be noted that the police officers have not received a raise in three years.

Frank Tyrell asked what is basically coming down here is because we all want to know.

Mayor Brescia explained there was a 1.2% increase in our tax rate from last year to this year which I have never seen such concern with that kind of increase. Last year was larger but the years before that was 2%, 0%, 1% and before that 3%. So, let's take all five years when doing a comparison. If we don't budget for that each year we're going to be hit with a big increase. So, I'm confident we have an accurate budget. I'm not going to be caught next year having to raise taxes because we did not have enough in the budget to cover what the police contract is going to be. We don't know what the expenses are going to be next year because we do not know when the contract is going to be. More than likely, we are going to have to pay retro . . . so Frank, I don't know where you are getting your information. Frank Tyrell responded saying it came from an article in the TH-Record by the reporter.

Frank Tyrell asked who negotiates the contract for the police department.

Mayor Brescia stated there is a negotiator for the PBA, one for the Village and one is neutral. Girvin & Ferlazzo represents the Village Board and somebody from the PBA.

Frank Tyrell asked how the hiring is done especially for the police and who is doing the background investigations.

Mayor Brescia responded saying usually the Officer in Charge interviews the applicant with sometimes Trustee Andolsek or Trustee Hembury. They bring the applicants to the Village Board and we then interview and hire accordingly. The applications go to the Orange County Department of Personnel and they then stamp their approval after reviewing the applications. If there is a problem with the officer they let us know. The police commission use to do the background investigation, which we are thinking about resurrecting. Otherwise, the Officer in Charge does it.

Frank Tyrell asked who is going to be on the Police Commission.

Mayor Brescia said the Village Board has not decided on that yet.

Frank Tyrell said he feels it would be the Village Board at fault for not discovering John Luffman was not qualified . . . if the Board did a thorough investigation. If he made an error, which everybody makes errors, I don't understand how it could be his fault.

Mayor Brescia stated back then, we had a police commission that did the background checks.

Frank Tyrell asked who was on that police commission at that time again and said he feels John Luffman would not have this problem to begin with if the Village Board did a thorough investigation. So, give me the names of those who where on the police commission.

Mayor Brescia said two of the commissioners (John Byrnes, Sr. and Joseph Cardinale) are now deceased and Fred Flood was a commissioner. The OC Department of Personnel approved the application.

Frank Tyrell said basically if the Village Board and police commission conducted the investigation and everything was okay and when it was sent to the County saying it was good they would have rubber stamped it based on your recommendation. It would let John Luffman off the hook because you people should have discovered that before hiring personnel. If John Luffman made an error and missed something on the application you guys would be responsible for hiring him.

Mayor Brescia explained the police commission interviewed him and then sent him to us and we interviewed him. There was a question asked because he was wounded in Viet Nam if he was able to work and he said he worked for 23 years in the police department and was okay. The application was taken to the OC Department of Personnel and they stamped it okay. It is unfortunate we are going to loose one of our best police officers. Thank you for your comments. Are there anymore questions? Frank Tyrell again reiterated he is concerned with what he feels is a 35% increase. Mayor Brescia said the increase is not a 35% increase.

Emilio Galanda said what Frank Tyrell is trying to put out there is our concern is with the village budget and the situation with the police department. I think we are just concerned

with how the police officers are being hired because we do not know the criteria for hiring. So, in the future if the Village Board does a better job at interviewing and qualifying police officers especially with disabilities it would not be costing the village. The onerous is on the Board of Trustees.

Mayor Brescia asked when you say costing the Village, what are you referring to? Emilio Galanda said he was referring to pending lawsuits against the Village. Mayor Brescia said the situation with John Luffman and George Lewis is not costing the Village anything. Emilio Galanda said from what it said in the newspapers it was costing us dearly for police officers who were not qualified to perform the job and we paid them a salary.

Mayor Brescia stated they were not qualified in the sense they did not have the proper waiver to work for us, but they were very qualified officers.

Emilio Galanda said all he is saying is in looking forward to look at polices in the things you are doing and how you are doing it and how you qualify these people. It's incumbent by the Board. It's not about blame in your direction. We all make mistakes.

Mayor Brescia said let me say that we are very transparent in our process. We have a budget hearing on the budget and go through it line by line with the public and answer their questions. The budget is public information and we explain the personal services and where the money goes. Nothing is secret. We can give you any information you want. The applications (police officers) go the County Department of Personnel.

Atty. Dowd added Civil Service controls the qualifications of the police officers. So, what happens is when we get applications we look to see if they are qualified then the Board interviews them. They have to meet the minimum qualifications of the Orange County Civil Service Department.

Frank Tyrell asked so are the police officers qualified civil servants then?

Atty. Dowd advised they are non-competitive civil servants. There are requirements which they must meet.

Jill Schmitt asked the Village Board asked who is going to be the officer in charge now?

Mayor Brescia responded saying we are not going to rush into anything. Myself, Trustee Hembury, and John Luffman will meet with Steve Gross from the County Department of Personnel on Friday to see what our options are. We are in the same boat as four or five police departments in the County that have had intra-departmental titles for years, which apparently we are not suppose to have. We are going to find out what we can use to have some kind of chain of command.

Frank Tyrell said how about taking a state exam and hire from that list. It sounds like the newspapers were right we were not following civil service rules.

Mayor Brescia said that may be something we may have to consider but all the police officers meet the criteria of (non-competitive) police officer.

Marilyn Smith said we are non-competitive and if you take a test you then become competitive and are on the list.

Mayor Brescia said we used intra-departmental titles for years just like Mt. Hope and Maybrook has done. But, as previously stated, we are going to find out what we can and cannot use.

Jill Schmitt stated as far as what has happened to our two officers that has nothing to do with what is coming out of our pocket. Unfortunately, those two officers will be paying the price because it will be coming out of their pockets. We are not footing the bill.

Judy Noorlander stated we already foot the bill because it is tax and state money. Police Department retirement fund is funded with public dollars whether it is local or state dollars.

Mayor Brescia advised we paid for hours worked. They have to pay it back.

John Ingrassia said he begs to differ that we don't have a loss here. We may have lost a good officer but it is a blemish on the Village once again, i.e. police department, power lines. If the officer is at fault, he should be blamed personally because if he does know he should not be taking two salaries at one time or getting a disability . . . if you are on disability and you are still a police officer, how does that affect your job? Who is in charge now?

Mayor Brescia stated the department is operating as it has. John Luffman has been helping in a volunteer capacity. . .

John Ingrassia said he can't understand it if he is going to be placed on some police commission at a later date and if he is even considered . . . after taking two paychecks over the past year and you still want to employ him and use his resources, there may be better candidates out there. If you disagree, that means he is already on your police commission.

Mayor Brescia said he does not agree with him and asked that character assassinations be reframed from.

Ann O'Brien asked if this situation brings the Village any liability with any prior arrests such as with the arrests made in the jewelry burglary.

Mayor Brescia advised in his opinion he feels it would not.

Leeanne Minieri said her brother-in-law just got out on a disability from the New York City police department and they don't tell you anything down there. It's quick, you're in

and out and they don't tell you what you can or what you can't do. They tell you that you can work and make a certain amount of money. So, in John Luffman's defense, they don't tell you what you do.

Ann O'Brien said there is something they call a 211 waiver that they must have.

Trustee Hembury stated that comes into play only if they make over \$30,000 a year.

Mayor Brescia advised we do have an officer that is retired with a disability and has the waiver and he is only allowed to work two more years for the Village.

Officer Capolupo responded to the question about the jewelry store saying he is going to be sentenced and my credentials are fine. I understand the concerns being expressed and I would be willing to speak with anybody about where we are at. If you want to know about our morale, it's not the best because we lost a guy that we liked very much to be honest with you. But, we still have two senior supervisors that are still in place. We want to stay here and make this Village safe.

Mayor Brescia added to that by saying we have a very good police department with a 53 second response time. We have a safe Village and it will continue to operate as such and we will have continuity. We had a question when a town officer that is a lieutenant, a civil service capacity, etc. comes into the Village on the scene with the Village officer, yes, that officer can take over the situation. We don't think we are going to have that. Occasionally, we have a situation where they are on the scene and at the present time they can take over the scene. But, I'm sure they are going to work cooperatively with the Village officers if that happens. It seldom happens, but it does happen occasionally.

John Luffman stated in his defense because I am the person you are talking about that I was the officer in charge. I had done my waiver and I had done everything that I thought was necessary for me to work. I had sent all my paperwork to Orange County Civil Service and it came back stamped approved, excellent pick. This was a loop hole that I did not see until somebody shook the trees and looked through the New York City Charter and found it. Now, I am allowed to work as many hours as I want, unfortunately not in a government in New York State. And that is where I am wrong because I did not see that piece where it said I am not allowed to work for a government in New York State. And that was changed in 1991. I got out at that time. As far as my paperwork, I have all the stuff that I signed when I left NYPD. There is nothing in there about that. I was shocked when I saw the 1117. As far as being a commissioner, which John Ingrassia was talking about, I cannot take anything from this Village, I want to give to the Village. If I worked in Jersey, it would be okay. If I did go to New Jersey, I would not know most of these fine people here and kids I taught in the D.A.R.E. class. So, I'm happy I came here. I am getting punished and I am going to be paying whatever I have to pay. But, as far as the Village, no I am not taking any positions that the people are asking about, but I am going to stay with the Board, if they want me, and give them whatever knowledge I have and I yes I am a highly qualified police officer if anybody else wants to know.

John Ingrassia said to John Luffman I want to apologize if I offended you in any way.

John Luffman apologized to everybody in the room if he had offended them.

John Ingrassia appreciated the comment saying after knowing John for a few years and speaking to John Luffman on the phone respects his integrity, but wished he would have spoken before anyone saying anything because it was heartfelt and I appreciate it. Again, I extend my apology to John Luffman if he took offense to any of the comments.

Trustee Hembury said let me add further to that. If I had worked as a state officer like I did and the same thing happened, it would not have applied. It is only for New York City.

Corey Lewis said if there is anybody in here that knows the entire New York City Charter and every rule and regulation, then good for you.

John Luffman stated when this came up he checked the computer and it was unbelievable where I had to go.

Trustee Hembury said John (Luffman) made a mistake, are we going to crucify him for this? We have correction officer and a NYC firemen working here. We don't pay their medical bills. We pay them only \$17 buck an hour. You give that up you are giving that up a lot. Again, excuse me for getting upset, but I did not wake up in the morning and say I want to be a village trustee. I am honored being a good cop and having a good name here in the Village. I ran for trustee because of this police department. Another thing about Montgomery is it is a beautiful place. There is no crime here.

Mayor Brescia said Meghan Murphy from the TH-Record called Friday and mentioned the word fraud and I was kind of taken back about it because I believe in my heart John Luffman and George Lewis would not have worked here if that were the case. They both worked hard in that department. I have seen how John (Luffman) had touched the children from the elementary school. I have seen the stress they have gone through for the past few days worrying about how much they have to pay back to the pension fund in New York City. It is unfortunate and they made a mistake, but I don't think we should sit in judgment. I don't want to see them leave.

Jill Schmitt said it was a mistake and feels everybody did not know. There are so many qualified guys and girls in our department. They are probably more qualified than most anywhere else in the County. So, you have to take that under consideration. It's really surprising they are here for \$17 an hour.

Ann O'Brien feels there is not anyone here to attack anyone in particular. You pay the taxes and you are a village resident and we're owed honesty from transparency. If we read something in the paper, you come to a meeting like this to get clarification. We are not here to throw stones.

Trustee Hembury stated look at the cops in the town and I know a good portion of them, two of their guys are doing state prison time for doing burglaries and ripping off Wal-Mart. When I was in Newburgh, we went through three scandals. Every time I went somewhere they would say 'are you going to steal something from me'? These poor guys out there have to put up with this. These guys are not bad apples.

Frank Tyrell stated the only thing he is saying the Village Board should not be having executive sessions. They should be open public meetings like in Walden. It causes people to wonder what is actually being done. And I told you this once before, that you should let people know ahead of time before making decisions.

Mayor Brescia responded stating if we go into executive sessions for personnel, we can't discuss that in public meetings or we could get sued.

Frank Tyrell added a lot of times we sit here for hours and then you come out and after waiting for two hours everybody leaves before you come out of executive sessions.

Mayor Brescia said the Village Board never has two hour executive sessions.

Judy Noorlander said she had heard a lot of rumors about redevelopment of a police commission in the Village and recalls that there was one before where the father of our officer in charge was on the police commission, an issue with which she always had problems because to me that is a conflict of interest. It is unfortunate this has happened to John, but it hit the newspapers and everybody had the same reaction – what the hell is going on in our wonderful little village and how do we deal with it. So she called the district attorney's office and spoke with Frank Phillips who informed her that any discussion of the development of a police commission must happen in the public otherwise it is against the freedom of information law of New York State. So, I am asking you if you are about to consider that in executive session that you do it right here in front of the people.

Trustee Hembury stated that is a good point and that is why we have an attorney to help us out. He should know that.

Judy Noorlander said he has not always been right . . .

Mayor Brescia advised if the Village Board decides to institute the police commission that it is subject to a public hearing with public notices.

Jill Schmitt added if we wait for Mr. Dowd we will all be semi-retired. When a decision is made he really does not jump right on it.

Vlg. Atty. Dowd: I make decisions.

Jill Schmitt said she is just saying we have to wait a long time for certain things and we need to be a little quicker on the draw than that.

Judy Noorlander said her point is all the discussion of the development of the police commission should be done in the public and if you remember, there were a lot of problems with the last one and I recollected you dissolved the last one after many troubles with the officer in charge. I've been around a long time. The bottom lines if you are going to do one, then I want to see it done right and then with the public involvement and I want the people in public to have the opportunity to apply for positions for the police commission. I don't want it to be an appointment just by the Mayor, I want the Mayor to reach out into the community find out who is best able to do that and let them apply for it and interview.

Mayor Brescia said there was a lot of good with the last police commission and it was dissolved after fourteen years and thanked Judy for the comments.

A gentleman from the audience said his father is a retired New York City officer for over a year. The only thing he can think of in defense of these guys is the city retirement system does not tell you anything. There were phone calls after phone calls to find out certain things. After asking questions after questions, he just got paid additional funds that he was entitled too which they would not have never told us without us asking many questions. So, in their defense, it is the truth, New York City does not tell you everything that you need to know.

Emilo Galanda said the whole point of it is if you make a mistake, all fine and good . . . we just want to see you make a genuine effort moving forward. We just need to find a way to find it transparent to the people. If there is going to be a qualified commission, they should be truly qualified. Police officers skills are not being disputed, just be qualified from a position perspective where you are being invested in a position. The people just have expectations from the Board of Trustees that they can help the people. At the end of the day it's the taxpayers. We think about the budget, but when do you decrease the budget. You keep adding and adding to it. Think about it like at your house, do you increase the budget every year? No, you don't. Show us as taxpayers how to scale back on the budget . . .

Mayor Brescia stated our increase this year is 1.2% which is probably the lowest around the Orange County. We tried to keep the budget flat because of the big increase last year by working with department heads and it was done. But, thank you for comments.

Robert Kiernan said what he is going to say has no reflection the police department, but as working as a commissioner for four year and a trustee for four years, did interview George Lewis. All the applications were scrutinized pretty thoroughly by the police commission. The applications were taken to Dan Hart at the OC Personnel Department. We use to spend hours there going over the backgrounds of the applicants. Again, if we hired under my realm as a trustee and commission, there was nothing wrong with George Lewis's paperwork according to Dan Hart, nor to anybody else to my knowledge. It is a sad, sad week in Montgomery's history. But, I do take substance to what Trustee

Hembury said about this being the greatest police department in Orange County. What you are saying is the other thirty police departments are terrible.

Trustee Hembury said he did not say that.

Robert Kiernan responded saying anybody can read between the lines. Right now because of what happened, there is nobody in the police department qualified to run that department. Again you said the police department is the best around with some great guys but who is in charge.

Trustee Hembury stated he was elected to this village and it's my baseball team and I'm going to walk down main street with the flags and everything I have for the Village. But, Bob, you work for a cement company. Do you have the best cement around?

Robert Kiernan said he would like to think so.

Trustee Hembury said he would like to think so too. But when I worked for Newburgh City Police Department, it was the best police department. I was elected here and this is my baseball team . . . and I disagree with the statement there is nobody qualified to run the police department.

Stacey Hillman said she does not know Officer Luffman but just wants to say that she thinks it's unfortunate that in this day and age a simple background check would have brought that up. Also, when anybody else gets disability they usually get a letter asking if you are working yet. It's too bad they don't do that with retirees from New York City Police Department and asked if it is over for him.

John Luffman said he was allowed to work any place except in a municipality in New York State. Unfortunately, I had to resign as of April 15<sup>th</sup> and I am not working any longer. I'll have to pay back the pension fund for the time worked.

Stacey Hillman feels because he did not know there may be legal action that can be taken.

John Luffman said he cannot talk about it but he does have an attorney. Again, I apologize to the people and affirmed that he is not going to take any position as it was mentioned before. The only thing that I can do is volunteer and be on my time.

Stacey Hillman asked if John Luffman has a case and it comes down the road, will the Village represent him in any way by talking on his behalf on what a good officer he was.

John Luffman said unfortunately, that probably won't work.

Mayor Brescia advised we can certainly give him a good recommendation and reference and speak highly of him.

Stacey Hillman said as a parent she has a concern with the amount of drugs within the Village and suggested making it harder for the kids to get drugs referring to a recent incident witnessed in front of her business on Clinton Street and does not understand how the police department is not aware of the amount of drugs in the Village.

Mayor Brescia advised Jill Schmitt and Office Capolupo is working on it.

Jill Schmitt said they have started drug coalition meetings to address this situation. Officer Capolupo stated there is crime in the village but not heavy duty crime. Last year there were about 1300 incidents with about 73 arrests. There are legalities the police department has to deal with. You just can't go in and kick garbage cans over. But, if anyone sees something, they can call us and we will act on it. They have had a few burglaries and robberies and a hit and run. Arrests were made in all of them. Clare Pahucki said the hit and run incident that involved her car, arrests were never made. The two officers had responded fast, within 2 minutes, but no arrests were made. Several phone calls were made but no arrests. Officer Capolupo said the department tries to keep a lid on it to keep the Village a nice place. The police department also does house checks, bank checks, school crossing, and patrolling. Never once has he not taken a phone call. Most everybody knows me. Trustee Hembury asked where Officer Capolupo came from with his permission. Officer Capolupo responded saying he has worked in just about every department in the Bronx including investigation, burglary and narcotics.

Leeanne Minieri said as living and working in the Village she saw a drug deal go down and the police department was called and they were there immediately. Stacey Hillman said so arrests are being made but just not published in the paper which is fine. Leeanne Minieri went onto say anytime she had an issue the cops come immediately. She referred to an incident at Duncan Donuts last week who called the police and it took a long time for the town police to respond. So, she said I would not ever want the village police to not be here.

Deputy Mayor Scheels stated it's nice not to see the police blotter for the Village in the paper.

Mayor Brescia said we don't want to minimize the drug problem, but feels we have a good handle on it, better than other places.

Stacey Hillman asked exactly what does a police commission do.

Mayor Brescia explained some of the things they do is help with interviews, do background checks, and investigate civilian complaints.

Judy Noorlander inquired as to why the previous police commission was abolished.

Mayor Brescia stated the Village Board started to take on more of those responsibilities. They were in existence for over fourteen years and they served a good purpose. The

members were appointed by the Village Board at the time. Before I became Mayor it was a police advisory committee and we made it a commission with a few more duties.

Jill Schmitt advised as overseeing the coalition for drugs and alcohol, we are lucky enough to keep it contained because we have our police department.

Trustee Hembury said if you loose control of the police department and the town takes over, you loose control over the budget too. The town will take care of the budget. The state government is having problems with the budget. There is no overtime. From 8 pm to 4 am the State Police have two men per car and might have only one car between Ferndale and Bear Mountain. Services are being cut. We are lucky to have our little police department. I moved to the Village not the Town and again I'll say this, it is my ballpark. It one of the finest police department around.

Frank Tyrell referred to an incident that happened in his cul-de-sac last year where it took over one-half hour for the village police to respond. He called the regular phone number and it rang over fifteen times.

Mayor Brescia said if the police station was called directly there probably was no one in the station. If you called the other number you probably would have had a faster response because it rolls over to central dispatch.

Robert Kiernan said he was told by someone from DPW that during the heavy snowstorm when D-line finished midnight no one from A-line came in from the police department.

John Luffman explained the officers worked until 2:00 am and at 5:30 am an officer was able to get to work. So it there was no coverage for 3 ½ hours. Our calls roll over to 911 because we have no officers that stay in the station to answer a phone call. Frank Tyrell said he did not call 911. John Luffman added the phone (457-3666) rings three times and goes directly to 911 who picks up.

Robert Kiernan advised that he would like to make a suggestion about the police commission. He feels they did their jobs very well. As I said before, I was not involved until 2002 and the first group of guys that came up all passed and their credentials were very good with Dan Hart from the personnel department. But, he feels if the police commission is created there should be a group of non-partison independent people serving on the commission. It might then work.

Robin Dambrot said because she missed part of the meeting has the union police contract been settled and if not how many more years will it take and is that the reason for the increase in the budget over the past couple of years.

Mayor Brescia said the contract has not been settled. We are hoping it will be settled by the end of this fiscal year, May 31<sup>st</sup>. It could go into next year. Right now it's up to a three panel board. From what we are told, they are making progress. We have put extra

in the budget to cover if there were retro pay and shift differentials. This year there was a 1.2% increase in the budget.

Deputy Mayor Scheels explained the union contract is now in interest arbitration which the Village Board does not have any control over. That is the problem. They are at an impasse. They have an impartial member from the PBA, PERB and someone that is representing the village.

Trustee Roepe said he hears a lot of concern from the public and wanted to comment on a conversation with John Luffman since this happened. John Luffman is an honorable person and he made a mistake and he is going to do the honorable thing and pay for that mistake. However, we were not elected to look out for John Luffman's personal interest he's going to do that in his honorable way. We are the Village Board and we are management. It is our job to make sure the risks or problems are taken care of. I'm disappointed the John Luffman will not be the head of the police department anymore and I've told that to John. But, there are good points and good questions that come back here to ask management. As management it is our job to draw the lines and set boundaries and stay within them. It is a real good question to come out here and ask about the taxes and ask about the budget. The fact is the budgeted expenditures for this year's police department are \$200,000 more than it was two years ago. Frank may not understand it in the proper way, but once again his point is that it should be explained and it should be made very clear. There are better ways, it's not that it is done wrong, but maybe the next time it could be done better. To the mayor's point the increase was 1.2% tax increase on taxes levied but, that is only if it is done in the way that it is being explained by the numbers as they are budgeted. If the PERB decision comes out and that money comes out of the money that is budgeted for the next year out of the police expenditure and nothing else and the police line reverts to the base line where it was two years ago, then it will translate to a 1.2 % tax increase. If that doesn't happen, it won't be that and if the PERB decision is more there will be a tax increase. So, the concerns are good and questions are valid, but the explanation could be clearer. For the record, I would like to say it is not a question of personal qualification. But as a Village we are obligated to follow state law and my concern is not whether or not we have a village police department but right now we have an issue which is solvable. And it should be addressed and hopes the Board looks into the problems and then fix them properly so it is better for the police department to move forward. Like I said, it's a shame what happened and unfortunate that we don't have John, but there are issues with the county personnel department about the positions. We need to go with what is protocol across the state.

Mayor Brescia feels the police budget was explained clearly and asked Trustee Roepe how he would have allocated that money in the budget.

Trustee Roepe said he would have put a separate line item for police expenditure and keep the rest of the budget the same.

Mayor Brescia asked if that line item would be in the police budget or somewhere else in the budget.

Trustee Roepe said it would be better to put it in the police budget so people could see clearly when they pick up the budget they can see this is what the Board is projecting and what the PERB expenditures would be.

Mayor Brescia said it probably would have been better to do that but it's a matter of semantics because it is still in the police budget and it still has to cover what we think is going to be PERB expenses . . . maybe it should have been put in contingency because it does not reflect positive on the police department who has not had raised in three years. But, next year if we get hit with a large expenditure and the money was not there, I would much rather answer the taxpayers of the Village with it being in there and we don't have a larger increase next year.

Emilio Galanda asked if the Board has an actual plan for the police department and said he would like to keep the police department and is in favor of an increase to attract and keep the officers. If it takes increasing the taxes to keep the police department, he does not have a problem with that. The Board was asked if it would be possible to put together a synopsis of the last five years expenses and how the taxes were raised to show the taxpayers the progress of the Board. This would give the taxpayer the opportunity to gauge the performance of the Board. In any company or corporation they have budget forecast and it's tied to the performance of that company.

Mayor Brescia said that is a good point.

Trustee Roepe feels that most people that live in this Village thinks there should be a village police department and I am one of them. There should be a department for a cost, but there should not be a village police department at any cost or at all costs. It would be nice to see everybody here more often to discuss as we as management draw the line and have boundaries.

Mayor Brescia said in response to that we do have a plan and we will have a better plan after with meeting with the County Department of Personnel. We were waiting for the new commissioner of personnel to meet with. I think we have run the police department very affordably over the past few years when I look at the town's police budget of \$2 million. We have over a little more than a half of a million budget and our mission is done in an exemplarily fashion. As far as past budget highlights, we can have the treasurer look at it and highlight where some cost overruns were. But, anyone can look at the past years budget. There have been some increases for emergency repairs such as at Wesley Hall and litigations. We certainly can try to highlight the five years.

Judy Noorlander asked for information to be available on the web site because many people work different hours than the office is open. For example when you come to the budget hearing, you get a copy of the budget and get a few seconds to look at it and ask questions. Also, the minutes should be on the web page so if you have an issue you can come prepared and it probably will avoid a lot of tension at the meetings.

Deputy Mayor Scheels stated the budget has been on the web site for the past two years.

Mayor Brescia said it's a good question and the question has been brought up before. We have been working with the web site person to keep it up to date to keep the people more informed.

Brian Watson commented on the PBA contract when it had been mentioned the PBA was dragging its feet. He stated as a member of the PBA, I can say they are not dragging their feet. The contract is in arbitration now and it can be settled at anytime. What happens is by forcing a PERB judgment everybody kind of gets the deniability of saying we can do that. What happened in my opinion, a former trustee, Robert Kiernan, was the key obstructionist in getting that done . . . that is my opinion.

Robert Kiernan took offense and responded saying 2002 to 2005 the police department did make \$12 per hour and by 2005 there were making \$17 per hour because of me. In April 2006 before the union stuff started I sat at that table with a former trustee and offered the police department a \$.85 per hour raise, which would have brought you to \$18 four years ago. So I was not an obstructionist. I promoted the police department to the biggest amount possible.

Mayor Brescia thanked everyone for the comments.

#### **RE: COMPOST SITE**

Mayor Brescia went on to say John Ingrassia brought up a good point about the compost site. The compost site is for village residents and commercial businesses in the village. It's only for residential compost. The site is being policed and tickets will be issued. This should help resolve the problem of people dumping from outside of the village. The new hours are Monday thru Friday between 7:00 am to 2:30 pm and Saturday 9:00 am to 2:30 pm. If a resident wants to bring stuff to the compost site other than those hours, they can call the police department and identify themselves as a resident. Trustee Roepe said it may come to issuing something from the Village Hall saying you have a village address to use the compost site.

#### **RE: ADJOURNED TO ATTORNEY-CLIENT COMMUNICATION**

Moved by Trustee Roepe, seconded by Trustee Andolsek, the Board adjourned to attorney-client communication at 8:36 pm to seek advice to establish a police commission with Atty. Dowd and Vlg. Clerk Thompson in attendance. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board adjourned back to the regular meeting at 8:48 pm. Motion carried 5-AYES, 0-NAY vote.

**RE: EXECUTIVE SESSION**

Moved by Trustee Roepe, seconded by Deputy Mayor Scheels, the Board entered EXECUTIVE SESSION at 8:48 pm under Public Officers Law §7(f) to discuss police personnel for the purposes of conducting interviews an with Ryan Law and with John Luffman, Officer Wippel, Atty. Dowd and with Vlg. Clerk Thompson in attendance. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board went out of EXECUTIVE SESSION at 9:08 pm. Motion carried 5-AYES, 0-NAY vote.

**RE: POLICE DEPARTMENT APPOINTMENTS**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board appointed Officer Paul Wippel to the position of acting Officer-in-Charge of the Village of Montgomery Police Department at the rate of \$18.65 per hour, subject a one-year probationary period. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Hembury, seconded by Deputy Mayor Scheels, the Board appointed Ryan Law to the position of police officer part time at the rate of \$16.15 per hour subject to a one-year probationary period and the availability of hours as designated by the police department. Motion carried 5-AYES, 0-NAY vote.

**RE: EXECUTIVE SESSION**

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board entered EXECUTIVE SESSION at 9:09 pm under Public Officers Law §7(f) o discuss the appointment of a village attorney with Atty. Dowd and Vlg. Clerk Thompson in attendance. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board went out of EXECUTIVE SESSION at 9:42 pm. Motion carried 5-AYES, 0-NAY vote.

**RE: APPOINTMENT OF VILLAGE ATTORNEY**

Moved by Trustee Roepe, seconded by Trustee Andolsek, the Board appointed Kevin Dowd as Village Attorney for a term ending April 5, 2010. Motion carried 5-AYES, 0-NAY vote.

**RE: ADJOURNMENT**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board adjourned the meeting at 9:44 pm. Motion carried 5-AYES, 0-NAY vote.

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Village Clerk Linda L. Thompson