

Minutes of the Regular Meeting, of the Board of Trustees, of the Village of Montgomery was held in the Court Room at 133 Clinton Street, Montgomery, NY 12549 on Tuesday, July 7, 2020 at 7:30 pm.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury, Trustee Lindner, Atty. Dowd, Village Clerk Rivera-Fernandez, DPW Supt. Nelson, Police Chief Herlihy, Building Inspector Yancewicz, John Vero, Fred and Beverly Mertz, Don Berger, Krista Wild, Ross Winglovitz.

#### PLEDGE OF ALLEGIANCE

Mayor Brescia opened the meeting with a Pledge of Allegiance to the Flag.

#### MINUTES

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board approved the minutes of June 2, 2020, June 9, 2020 and June 16, 2020. Motion carried, 5-Ayes, 0-Nays.

#### REQUEST TO MEET WITH BOARD

None

#### ABSTRACT NO. 06 - 2020

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, all bills listed on ABSTRACT NO.06-2020 were audited and approved for payment with \$324,281.59 from the General Fund, \$22,928.18 from the Water Fund, \$25,242.85 from the Sewer Fund and totaling \$372,452.62. Check No: 77896 – 77970, 1633-1642. Motion carried 5-Ayes, 0-Nays.

Treasurer Griffith reported a CASH BALANCE for the month of June 30, 2020, as follows: General Fund \$3,120,190.81, Water Fund \$262,096.61, Sewer Fund \$474,849.21.

#### OLD BUSINESS

Atty. Dowd provided an update on the Master Plan zoning committee meetings. The committee has been meeting for the last five weeks, every Tuesday night, and as of late they've been meeting on Monday nights. They have been reviewing the allowable uses in the industrial zones, with numerous discussions about various aspects of the code; special permit uses, regular uses. Trustee Lindner and Kevin Conero have contacted and met with some of the stakeholders, in other words, owners of properties that are under development or to be developed. He feels they are progressing by having open conversations, in order to implement as close as possible what the Comprehensive plan recommendations are. In addition to looking at setbacks along with a range of other issues and regulations that could be changed or modified and still allow for certain development in the Village.

Trustee Lindner mentioned meeting with the parcel owners of undeveloped land. The committee has explained to them, what it is that they are trying to do and asking for their input. Together they have collectively exchanged their thoughts, as well. We have a plan to meet with two more undeveloped parcel owners and that would cover all the undeveloped parcels in the Village.

Atty Dowd said when the Local Law was adopted, there was some difficulty in getting to NY State, to be received and filed by NY State. It was not filed until the 30<sup>th</sup> of June. The Village Clerk Rivera-Fernandez verified it today. Apparently, they claim the first mailing was not received, but it was received by the Code publishers. It was then sent a second time by certified/return receipt. When the return receipt was received, she called them they still had not seen it. Somehow it was lost in the mailroom of the State Department. She called yet again and was asked to send a third copy electronically and finally it has been verified that as of June 30, 2020, the Local Law No. 2 has been filed. Therefore, the Local Law is effective as of June 30<sup>th</sup>, it then expends through July 30<sup>th</sup>. Due to the COVID-19, their staff have been working remotely with several working at the State. He is perplexed by the fact that it was signed for by the mailroom but the appropriate office still had no knowledge of receiving it.

Mayor Brescia said that is not surprising. Are there any further questions on the Master Plan? It sounds like a lot of due diligence is being performed.

#### DEPARTMENT REPORTS – DPW

DPW Supt. Nelson reported that the water usage has escalated with everyone at home due to the pandemic. He was concerned that a possible water leak could be the cause of the drop in water. He spent two weeks looking for leaks and called in the leak detection company. They found several small leaks but nothing significant enough to warrant a large water lose. The lack of rain has also been a factor. A steady rain, instead of torrential rain is best for our water supply to recover. If nothing changes, he may have to declare a water emergency.

In the meantime, the park well is back in service. He is waiting for DOH approval to bring Holt Well #5 online. He is hopeful that will be a good well for us. He plans for the Jacobson Street Well to go online. We do have the approval to use it, although it is full of sulfur. This well is approximately ten to twelve years old, it was put into service and the longer that we pump it, the more sulfur it produces. He will consult Lanc & Tully for the possibility of a smaller version of another filter system. We need another water source. If we hadn't rained last week, we would have called a water emergency this week. We are using seventy-five to one hundred thousand gallons a day, without rain and the increased water usage; the levels went back down. Water is a huge issue, we are safe for now but every day without rain, the number climb to fifteen to twenty thousand gallons a day. Again, we do not want a deluge of rain. Something needs to be done to be able to drill another well. We have five wells but Holt well No. 1 and No. 2 have been cemented closed and capped since the 80's. So, we have Holt Well 3, 4 and looking to No. 5 into service, which are all located in the Town. The Park Well only pumps fifty thousand gallons a day. In a dire emergency the OC Airport may be able to help us. However, we may want to revisit the option of purchasing property, a minimum of two acres from the Hoeffner's. He feels it might be a good option for a new well.

In addition, garbage expenses are up 25 to 30 percent. We usually spend ten to eleven thousand dollars a month, we are now spending fourteen thousand dollars a month for garbage to be disposed of. All of our expenses are going up.

Mayor Brescia asked DPW Supt. Nelson to prepare for Holt Well No. 6. Contact the Hoeffner's and set up a meeting to discuss the possibilities purchasing property for a well. We need to look at our options and funding sources also.

## VILLAGE BRUSH DROP/COMPOSTING SITE SURVEILLANCE SYSTEM IS BEING CONSIDERED

DPW Supt. Nelson reported an unusual amount of brush being dumped over the weekend, blocking access to all of the garage bays. He has asked the Board to consider closing temporarily to clear the brush. He has since then been able accomplish this task. He said this was clearly not done by a Village resident. The site is only for the use of the Village residents. He feels an outside source, possibly from the Town are dumping here. In the past he had an employee working on Saturdays with Fridays off, to monitor the site. He may have to consider adding this back into the work schedule.

Trustee Hembury asked if we catch them what enforcement can be done? Are signs posted?

DPW Supt. Nelson replied yes, signs are posted and they have been run over and knocked down. There is a \$250.00 penalty for illegal dumping.

Mayor Brescia and the Board have agreed to keep the site open as is and add surveillance cameras to monitor the area.

DPW Supt. Nelson said the Village Clerk Rivera-Fernandez has arranged for NY Security Systems to come tomorrow, to provide us with a quote for the surveillance cameras.

## DEPARTMENTS REPORTS – POLICE DEPARTMENT

Police Chief Herlihy mentioned easing back into the traffic enforcement, code and regulations detail on the side streets, as a result, forty tickets were written this month. Two, peaceful protests, "Black Lives Matter" were held in the Village, with no incidents. The first was on June 9<sup>th</sup> and the second was held on June 14<sup>th</sup>.

One of the attendees wrote a comment the Departments Facebook page, he read the post aloud:

Dear Village of Montgomery Police Department thank you so much for you do for the people of Montgomery. Thank you for your service and protecting us. I attended the rally at Veterans Park a couple weeks ago and was blown away by the professionalism and empathy I witnessed from your department, especially during times when tensions are high. I saw that some people were holding signs of saying things that could've offended you, or made you feel unappreciated. Thank you for all the ways you make this world a brighter one. Enjoy some pizza on me. 😊

When a protester passed out in front of me, you all rushed in to help without a second thought. It showed what amazing & honorable people you are. Please know you are appreciated. Thank you, Katie.

Trustee Hembury thanked Police Chief Herlihy for community policing.

## PURCHASE AED UNIT FOR RECREATION CENTER

Moved by Trustee Hembury, seconded by Deputy Mayor Scheels, the Board authorized the purchase of a Cardiac Science Powerheart G3 automatic AED, AHA/ERC, pediatric electrodes, and a steel mount cabinet with an alarm, at the price of \$1,660.80, for the Recreation Center. (This replaces the outdated unit). Motion carried, 5-Ayes, 0-Nays.

## ACCEPT AHRB MEMBER RESIGNATION

Moved by Trustee Andolsek, seconded by Trustee Lindner, the Board accepted the resignation of AHRB member Nina Snyder effective immediately. Motion carried, 5-Ayes, 0-Nays.

## UNITE WITH NYCOM'S EFFORTS TO LOBBY CONGRESS TO PASS STIMULUS PACKAGE FOR STATE AND LOCAL GOVERNMENTS

Moved by Trustee Lindner, seconded by Trustee Andolsek, the Board adopted a resolution uniting with NYCOM's efforts to lobby Congress to pass a stimulus package for the States and local governments. Motion carried, 5-Ayes, 0-Nays.

## APPROVE MONTGOMERY FIRE DEPARTMENT REQUEST TO END PARADE AT VETERANS MEMORIAL PARK, ERECT A TENT, AND USE BATHROOMS

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board approved the Montgomery Fire Department request to end the parade at the Veterans Memorial Park and to erect a 40 X 100 ft. tent on Friday, September 25<sup>th</sup>, for use on parade day, on Saturday, September 26<sup>th</sup> and use of the bathrooms, with the conditions of providing the proper certificate of insurance listing the Village as the additional insured. Motion carried, 5-Ayes, 0-Nays.

## APPROVE BLOCK PARTY, CLOSING SYCAMORE DRIVE FROM RAILROAD TO PINE COURT

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board approved the Block Party request by Ms. Dumais of 39 Sycamore Drive application on August 22<sup>nd</sup>, with a rain date of August 23<sup>rd</sup>, closing Sycamore Drive from Railroad to Pine Court, with the usual conditions. Motion carried, 5-Ayes, 0-Nays.

## WILDFIRE GRILL RESTAURANT REQUESTS A MORATORIUM EXEMPTION

Ross Winglovitz with Engineering provided the Board with a synopsis of their client's request for an exemption from the Moratorium for permanent outdoor dining area at the Wildfire Grill Restaurant, at 74 Clinton Street. A financial hardship, will be experienced if she is not allowed to proceed after the Executive Order has expired.

Atty. Dowd said this is the first application requesting an exemption in accordance with Local Law No. 2 of 2012 Moratorium. The question is whether or not the letter and a copy of the aerial view you've received is a sufficient for a complete application. He advised the Board to proceed with caution, keeping in mind anything accepted in this manner will set a precedence for any and all future requests for an exemption. A financial hardship needs to be proved for an exemption and not by as a general statement. By asking the applicant to submit a complete application, you are then the Board can show just cause to say why they are considering an exemption, opposed to any other applicant that comes before the Board with a request.

Mayor Brescia suggests allowing her continue and work with Atty. Dowd for what is required for a complete application to be submitted.

Trustee Hembury suggested closing off the lower end of Clinton Street for the Restaurants.

Trustee Lindner said they have spoken with the Restaurant owners on Clinton Street and proposed this idea, very few had any interest in it. Due to the limited access and for their take out business, it would cause the customers to park on Union Street and walk to the restaurant.

Mayor Brescia said we can think of different solutions. However, it should not be that we have to make any other exemptions. He feels this is the best option.

Ross Winglovitz said they will be able to provide the necessary documentation at the next Board Meeting.

#### APPROVE WILDFIRE GRILL REQUEST FOR PERMANENT OUTDOOR DINING AREA

The Board asked Krista Wild, owner of Wildfire Grill Restaurant, located at 74 Clinton Street, to provide a completed application with the documentation proving a hardship for an exemption in accordance with Local Law No. 2 of 2020, Moratorium; at the next meeting of August 4, 2020.

#### SET PUBLIC HEARING FOR MORATORIUM EXEMPTION CONSIDERATION FOR THE WILDFIRE GRILL RESTAURANT

Moved by Trustee Lindner, seconded by Trustee Andolsek, the Board set a Public Hearing for a Moratorium exemption consideration for Wildfire Grill Restaurant, on August 4, 2020, at 7:15 pm. Motion carried, 5-Ayes, 0-Nays.

#### ADOPT A RESOLUTION ACKNOWLEDGING THE COMPLETION OF THE ANNUAL AUDIT CHECKLIST FOR THE VILLAGE OF MONTGOMERY JUSTICE COURT RECORDS

Moved by Trustee Lindner, seconded by Trustee Andolsek, the Board adopted a resolution acknowledging the completed annual audit checklist for the Village of Montgomery Justice Court Records on Thursday, July 2, 2020. Motion carried, 5-Ayes, 0-Nays.

#### APPROVE TO EXPEND UP TO \$400.00 FOR THE PUB CRAWL CONCERT

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board approved up to \$400.00 to be expended for the Pub Crawl Concert on July 31, 2020. Motion carried, 5-Ayes, 0-Nays.

(In Audible) speaking low and too far from recorder.

#### APPROVE BUDGET ADJUSTMENTS AS TREASURER GRIFFITH HAS OUTLINED

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board approved the budget adjustments as Treasurer Griffith has outlined. Motion carried, 5-Ayes, 0-Nays.

#### SUMMER RECREATION PROGRAM STATUS

Deputy Mayor Scheels said the Summer Recreation program began on Monday, July 6<sup>th</sup> and all is going well, with the screening, social distancing and wearing of masks. In the first two days, so far there have been no issues.

Mayor Brescia said the County IDA has loaned us their temperature machine for the Summer Recreation Program; the machine costs about \$5,000.00 to \$6,000.00. We will be able to use it at

the Senior Center and possibly at the Village Hall after Summer Recreation Program ends. He believes it is insured.

## PUBLIC PORTION

Mr. Berger congratulated Mayor Brescia for running for the Senate. He wants to know what the plans are for the Mayor position.

Mayor Brescia said he remains accessible by phone. The Clerk Rivera-Fernandez can send a text messages to reach me. He gets back right away.

Police Chief Herlihy mentioned he will be attending a meeting tomorrow at the County regarding the Orange County Air Show. It is expected to be held on August 27<sup>th</sup>, 28<sup>th</sup> & 29<sup>th</sup>. The Village of Montgomery PD, the Town of Montgomery PD, the NYS Police, and the Sheriff Office will be their providing assistance. In addition, the two reports he had were of the planes departing from Stewart and fly over Thomas Bull and the Orange County Airport, and the second to fly over the Orange County Airport. He will confirm this tomorrow.

Mayor Brescia said the County Executive has been talking about the Air Show. He is hopeful a donation be made towards the demand on the Police Department, providing additional assistance.

The Mid-Hudson St. Patrick's Day Parade is giving a donation of \$5,000, which will more than cover our personnel coverage. Otherwise, we would have not considered it. He anticipates heavy traffic and noise.

Mr. Mertz mentioned his house shaking from the shocks of the Medline Blasting that is a half a mile away. He does not feel they have to put up with his, something should be done to correct it. He feels his house is not going to be able to take the shocks from blast after blast. It could very well cause a window to break. He has also contacted the Town of Montgomery.

Mayor Brescia said we will contact them and what rights they have. A CodeRed will certainly be launched. He asked Bruce to look into it and find out what recourse we may have, if its needed. We certainly to not want damage to any of the Village homes.

Trustee Hembury asked if the blasting could affect our wells?

DPW Supt. Nelson said he will contact our engineer to see what the affects are. If they are feeling it in their homes, we are going to feel it in the pipes.

(In audible person speaking too low and too far from recorder)

Atty. Dowd said he will contact the Planning Board Attorney and the Medline Attorney about the homes shaking and inquire about the liability.

## EXECUTIVE SESSION

Moved by Trustee Lindner, seconded by Trustee Hembury, the Board entered into Executive Session at 8:23 pm, under the open meetings law §7 (f) for matters regarding the employment history of two particular individuals with the Atty. Dowd, DPW Supt. Nelson, and Building Inspector Yancewicz, and the Village Clerk in attendance. Motion carried, 5-Ayes, 0-Nays.

## EXITED EXECUTIVE SESSION

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board Exited Executive Session at 9:04 pm. Motion carried, 5-Ayes, 0-Nays.

## APPROVE VACATION LEAVE TIME TO BE CARRIED OVER PASSED ANNIVERSARY DATE

Moved by Trustee Lindner, seconded by Trustee Andolsek, the Board approved DPW Supt. Nelson to carryover his vacation leave time passed his anniversary date. Motion carried, 5-Ayes, 0-Nays.

## ADJOURNMENT

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board adjourned the meeting of July 7, 2020 at 9:06 pm. Motion carried, 5-Ayes, 0-Nays.

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Monserate Rivera-Fernandez, Village Clerk