

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, **June 1, 2010** at 7:30 p.m.

PRESENT: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury, Trustee Roepe; Atty. Dowd; Chief Corcoran; DPW Supt. Nelson; John Luffman; Richard Kurisko; Barbara Hoblin; Ray Shipman; Bruce Kaufmann; Richard & Ginnie Neidermeyer; and some residents from Viking Heights.

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

RE: MINUTES

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board approved the minutes of May 18, 2010. Motion carried 5-AYES, 0-NAYS vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board approved the minutes of May 26, 2010. Motion carried 5-AYES, 0-NAYS vote.

RE: ABSTRACT NO. 06-10

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, all bills listed on ABSTRACT No. 06-2010 were audited and approved for payment, subject to two trustees final review, with \$62,104.35 from the General Fund, \$2,210.12 from the Water Fund, \$25,310.47 from the Sewer Fund and totaling \$89,624.94.

Check Nos: 37343-37359; 39969-40066. Motion carried 5-AYES, 0-NAY vote.

Treasurer Benedict reported a CASH BALANCE for the month ending May 31, 2010, as follows: General Fund \$1,432,196.13, Water Fund \$206,939.14, Sewer Fund \$100,763.55.

RE: BICENTENNIAL EVENTS

In celebration of the Village's bicentennial the events for June are as follows:

- June 11th Little Miss & Mr. Montgomery Contest at Senior Center
- June 13th Band Concert at Montgomery Manor Gazebo
- June 18th Block Party at Firefighters Museum

RE: REQUESTS TO MEET WITH BOARD

Bruce Chapin, village basketball program coordinator for the past five years, discussed increasing the fall basketball fees from \$50 to \$55 and renaming the Village Basketball League to Vikings Youth Basketball. The increase is because of the increased attendance and the need for more reliable coaches. The program started with 180 kids and since that time we are up to about 400 now. The kids are from all over the district. In addition, he

mentioned it has always been his goal some day to have a facility for the program. To do something like that it may run into a town issue. Without going into specifics and for the politically correct aspects of it, the program that is now called the Village of Montgomery Basketball Program would be known as the Vikings Youth Basketball. That name would encompass the whole district and it still would be sponsored by the Village. The Board was asked for their opinion.

Mayor Brescia commended Bruce on the success of the program and stated he does not have a problem with increasing the fee, but feels there could be some what of a liability exposure if we go outside of the Village sponsoring the program.

Atty. Dowd advised there may be concerns with if a child gets hurt and he/she is not a village resident then the Village of Montgomery residents or taxpayers are paying for an injury to a child that is outside of the Village of Montgomery. Bruce Chapman said there is a disclaimer on the form that may help. Percentage wise, the majority of the kids are from the Village of Montgomery. Atty. Dowd added the name Vikings includes Valley Central which is not just the town and three villages but other areas.

Mayor Brescia recommended to Bruce Chapman to contact the Village of Montgomery insurance carrier to see what the insurance ramifications are because we certainly want to keep the program going. Bruce said if it becomes an issue there is no problem keeping the program name the same. Mayor Brescia said maybe at some point we will have to expand the program and bring in the town and other villages and have some type of agreement. Bruce thanked the Board and left the meeting.

Robert Kiernan (Pleasant Ave.) asked the Board if they had a response for his question at the last meeting about the sewer rate increase and the upgrade of the plant.

Mayor Brescia advised DPW Supt. Nelson was asked to speak to the increase in the sewer rate. After speaking with Eng. O'Rourke about the sewer treatment enhancement, his recollection is the initial figure was around \$3.5 million. It was never \$2 million. There estimate now is about \$4.7 million with \$145,000 construction contingency which is about 20% which brings the total figure to \$5.67 million. The \$6.5 figure is what Russell Budd is using for the grant.

DPW Supt. Nelson added once the design was known, the engineer was able to give a ballpark figure. Mayor Brescia said the design was completed and not bonded. That is one of the reasons for the increase in the sewer rate. Robert Kiernan said he might have gotten his information mixed about the last time for a sewer rate increase saying he probably was thinking about the water district increase. Mayor Brescia said there have been sizable sewer rate increases but they have been over a long period of time. But as far as the water rates, they are probably one of the lowest around.

Mayor Brescia asked DPW Supt. Nelson to give a few other reasons for the sewer rate increases. DPW Supt. Nelson responded saying just like everything else the cost of the operation and maintenance goes up every year as does the utility bills and sludge hauling.

Another example is over the weekend a sludge pump went down and that costs about \$5,000 plus labor. The plant operates 24/7, 365 days a year. There is no down time. The plant is about 30 years old. We can't predict when something is going to break down, so we have to have money on hand. The operation and maintenance costs go up between three and three and half percent a year. The last increase before last year was eight years ago. The increase was \$.22 and that resulted in about \$19,000 for the entire year that averaged out to about \$13 per household per year. Last year's increase was not enough to take care of what was needed.

Mayor Brescia added the sewer rate increase data is available . . .

Robert Kiernan said he does not need a copy of the rate increases and mentioned he feels the biggest concern was we sat back on our hands and that being partly on me when I was on the Board. We should have pushed more for the sewer plant enhancements back in 2005 to save the village on bonding the \$2 million at the present rate that could turn into \$4 million if not more.

RE: DEPARTMENT REPORTS

DPW Supt. Nelson reported the comfort station in the park was vandalized during the day. There probably is a few hundred dollars worth of damages. A police report has been done.

Mayor Brescia asked Chief Corcoran to patrol the park more because there has been vandalism by the new Eagle Scout project by the bridge. It usually happens more this time of year. Using the electric car to patrol in the park could help.

Robert Kiernan recommended zero tolerance on situations like that.

Mayor Brescia agrees and that that is what they are trying to do.

Chief Corcoran reported the Memorial Day Parade went well and the day worked out good and he is still working his way through the job.

DPW Supt. Nelson reported he will be speaking with NYS DEC to discuss the possibility of dredging the pond in Viking Heights after a resident suggested it. Mayor Brescia asked DPW Supt. Nelson to continue looking into ways to help clearing up the pond.

Mayor Brescia also asked DPW Supt. Nelson to look into putting a swing set by Viking Height pond.

RE: BARKING DOG ORDINANCE

Mayor Brescia advised Atty. Dowd will be submitting legislation for the Board to review and a public hearing can be set at the next meeting.

Ray Shipman and the Board discussed the barking dog ordinance and how the present local law could be more enforceable. If that can be done, it will give the animal control officer more power to enforce the law on behalf of the residents. Chief Corcoran agrees saying by making changes will no doubt help a dog complaint situation if it should arise. After a discussion, the Board asked Atty. Dowd to include in the amendment to the barking dog ordinance any dog barking for a period of ten minutes or more within an hour of time or for five minutes or more on three occasions and to increase the fine to \$75 and a maximum of up to \$250.

Atty. Dowd advised he will have the local law in place to be introduced at the next meeting and then the Board can set a public hearing.

RE: TIME WARNER CABLE FRANCHISE AGREEMENT

Atty. Dowd reported Time Warner Cable will need to amend the agreement they submitted to the Village. A public hearing will probably be held sometime in the summer.

RE: PLANNING BOARD & ZBA – RESIGNATION(s); APPOINTMENT

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board accepted with regret the resignation of Planning Member Elizabeth Weismann effective immediately. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board accepted the resignation of Zoning Board of Appeals Member Walter Lindner effective immediately. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Hembury, seconded by Trustee Andolsek, the Board appointed Walter Lindner as a member on the Planning Board to fill the vacancy created by Elizabeth Weismann, term ending April 2, 2012.

RE: 2010 SUMMER RECREATION STAFF APPOINTMENT

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board appointed the 2010 Summer Recreation Staff as follows:

NAME:	TITLE:		SALARY:
TAYLOR, THOMAS	DIRECTOR		\$6,500.00
JACKSON, JENN	ASST DIRECTOR		\$5,200.00
SAVAGE, DIANE	COUNSELOR/CIT		\$5,000.00
HOEFFNER, GEORGE	SPORTS		\$3,200.00
WILLIAMS, PATTI	HEALTH		\$3,000.00
VERMILLING, LINDSAY	HEALTH SUB		per diem
BALL, JENNYROSE	Sr. Counselor	2	\$1,700.00
BARTLE, GREG	Jr. Counselor	2	\$1,700.00

BENEDICT, SAMANTHA	AC Sr. Counselor	2	\$1,700.00
BORIELLO, ALLISON	Jr. Counselor	1	\$1,600.00
BORIELLO, NICOLE	Jr. Counselor	1	\$1,600.00
CAVALUZZO, MELISSA	Jr. Counselor	1	\$1,600.00
CLAIR, NICHOLAS	Sr. Counselor	4	\$1,800.00
CLAIR, XAVIER	Jr. Counselor	2	\$1,700.00
CLAIRE, LAUREN	Jr. Counselor	1	\$1,600.00
CODDINGTON, ELIZABETH	Jr. Counselor	1	\$1,600.00
CONKLIN, TAYLOR	On Call	1	per diem
DONOVAN, CHRIS	Sr. Counselor	2	\$1,700.00
EY, ASHLEY	AC Jr. Counselor	1	\$1,600.00
FISHER, KIRSTEN	Jr. Counselor	2	\$1,700.00
GILLIES, LINDSEY	Jr. Counselor	1	\$1,600.00
HEMBURY, MICHELLE	Sr. Counselor	5	\$1,850.00
HORNER, ANNE	Jr. Counselor	1	\$1,600.00
HOUSE, MICHAEL	Jr. Counselor	3	\$1,750.00
HOWELL, DEVIN	Jr. Counselor	2	\$1,700.00
MAIER, SAMANTHA	Jr. Counselor	2	\$1,700.00
MATTHEWS, JACKIE	Sr. Counselor	5	\$1,850.00
MCLEAN, JESSICA	Sr. Counselor	2	\$1,700.00
MEAD, SHERI	Sr. Counselor	3	\$1,750.00
MICHELLA, BILLY	Sr. Counselor	2	\$1,700.00
MICHELLA, SARAH	Sr. Counselor	1	\$1,650.00
MOSCATO, VINCENT	Sr. Counselor	4	\$1,800.00
PFORTE, JESSICA	On Call	1	per diem
SAVAGE, DANNY	Maintenance	1	\$1,650.00
SAVAGE, STEVEN	Sr. Counselor	4	\$1,800.00
SCHMIDT, ELIZABETH	Sr. Counselor	4	\$1,800.00
SCHMIDT, KATHRYN	Sr. Counselor	2	\$1,700.00
SERANO, NATE	Jr. Counselor	2	\$1,700.00
SPERANZO, NICOLE	On Call	1	per diem
STEELE, DOUGLAS	Sr. Counselor	1	\$1,650.00
STEVENS, HAILEY	Sr. Counselor	1	\$1,650.00
STEVENS, JENNA	Jr. Counselor	1	\$1,600.00
TAYLOR, JANELLE	Sr. Counselor	1	\$1,650.00
WALSH, BRITTANY	Sr. Counselor	4	\$1,800.00

TOTAL \$83,110.00

BORIELLO, KATHIE	CIT	1/2 Day
BRATTESANI, ALYSSA	CIT	Full Day
CASSAMASSIMO, ELIZ.	CIT	Full Day
CHAVIN, ASHLEY	CIT	Full Day
DAYTON, TYLER	CIT	Full Day
DIXON, MATTHEW	CIT	Full Day
DORAN, HEATHER	CIT	Full Day

FALCO, DANIELLE	CIT	Wk 1-4-5 Only
FROMETA, GABRIELLA	CIT	Full Day
GRAY, CHRISTINE	CIT	Full Day
GRFFIN, KAYLA	CIT	Full Day
HOWELL, BRADELY	CIT	Full Day
HOWELL, ZHENYA	CIT	Full Day
MCNUTT, MEGAN	CIT	Full Day
MOHR, LEANNA	CIT	AM Only Vac. 7/10-
O'KEEFE, CLARE	CIT	7/18
PRESUTI, MEGAN	CIT	Full Day
ROSELLI, NICOLETTE	CIT	Full Day
SCHMOLL, JAMES	CIT	Full Day
SCHUYLER, JULIANA	CIT	Full Day
SEPULVEDA, AMANDA	CIT	Full Day
SINGH, KAVITA	CIT	Full Day
TAURIELLO, JAMIE	CIT	Full Day

Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Roepe voting AYE and Trustee Hembury abstained. Motion carried.

RE: BROWN WATER

Mayor Brescia asked DPW Supt. Nelson for an up-to-date report on the brown water in the Village.

DPW Supt. Nelson reported the County Health Department asked for the plans to be redesigned. A small storage tank (150-200 gals.) may have to be added. The DOH should be sending someone out in the next couple of weeks to try and help us so we can do it as cheap as possible. They are talking about using a chemical that can be injected outside of the building to give more contact time before it hits the chlorine. So, hopefully, by the next meeting he will have more to report.

RE: WORK SESSION

Mayor Brescia advised because of the feedback received from the residents on Wallkill Avenue who would be affected by the proposed one-way parking, he would like to hold a work session to meet with residents to discuss their concerns. The Board agrees.

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board set a Work Session on June 15, 2010 at 6:30 pm for the purposes of meeting with the residents on Wallkill Avenue who will be affected by the proposal of one-way parking on Wallkill Avenue between Charles Street and Boyd Street. Motion carried 5-AYES, 0-NAY vote.

RE: FALL BASKETBALL PROGRAM

Moved by Trustee Hembury, seconded by Trustee Andolsek, the Board approved to increase the Village of Montgomery Fall Basketball Program signup fees from \$50 to \$55 effective with the 2010 Fall Basketball Program. Motion carried 5-AYES, 0-NAY vote.

RE: PUBLIC PORTION

Richard Neidermeyer (222 Cardinal Dr.) speaks about the use of a small path in Hummingbird Court allowing access to the Montgomery Elementary School. He proceeded to read a generic letter from the concerned parents of Montgomery Elementary School students from Viking Heights that request the Board to intervene on an issue important to them. For many years the parents have used the footpath to the school and the school has used it for evacuation purposes as well. The path keeps the kids off Rt. 211 and helps to eliminate congestion at the school parking lot. Recently, the new owner of the property where the path is located has asked the police department for help to keep the parents and students from using the path that is on their property because there is littering and the cars block their driveway and they cannot get out to go to work. He said the residents were asked not to park in the cul-de-sac and feels he would rather pick up the candy wrappers and whatever than have the kids walk out on Rt. 211. After doing some research, it is his understanding the unrestricted use of the path for what he understands is over 30 years that it was covered by a term know as 'prescriptive easement'. A police detective was asked to arrange for mediation between the parents and the owner of property which he was told it will not happen. He went on to say before the situation becomes a legal situation, he would like to see if the Board can help out in some way.

Mayor Brescia asked Atty. Dowd to elaborate on the prescriptive easement. He remembers the path being there his whole life.

Atty. Dowd said basically it's an adverse position. The school and land owner deeds from back in the 1970's should be reviewed to see what can be found as well as subdivision approvals from the planning board for Viking Heights.

Rich Kurisko has lived in Viking Heights since he was born and remembers the path being there his whole life. He happened to be jogging through there when the owners asked him not jog to there anymore and signs were posted a few days later.

A resident said as a point of interest there may be an easement for the utility box at the entrance of the path. It may be helpful if a fence was put up to keep the people off the property. She remembers the previous owner had a fence there 30 some years ago.

Chief Corcoran said it was brought to his attention there is a new homeowner there. In sense of fair play suggests the Board hear from them because they are paying taxes on it. In trying to police this kind of issue where there is a dirt path and if someone falls and

gets hurt on their property they can also be liable. As far as a threat of arrest goes, this is something we don't want to make an arrest on. After checking with the district attorney's office, their suggestion to us was probable cause exists if we wanted to make an arrest.

Richard Neidermeyer said not being an attorney he feels you can't just stop people from using the easement who have used it for over 30 years . . .

Mayor Brescia stated he would like to research the legality and then maybe mediation could be held with the homeowner to see if something could be worked out. Maybe they can have an easement with the school and be compensated in some way for it.

Another resident from Viking Height agrees if that pathway to the school cannot be used that it will create an even bigger parking congestion at the school. Right now you have to start going into the school parking lot 45 minutes before school starts to find a place to park.

Mayor Brescia said the Board will look into it and try to resolve it before the school starts in September.

Bruce Kaufmann (156 Mason St.) was at the meeting to see what was happening with the old lumber yard property on Railroad Avenue.

Mayor Brescia said an engineer has met separately with the trustees with the exception of Trustee Andolsek and himself and they will abstain from voting on it because Trustee Andolsek lives next to the property and the property owner was his recent employer. But, when more information is available, the Board will let him know. Bruce Kaufmann said he and some of the neighbors are not happy about what they are hearing and thanked Mayor Brescia for letting him know when something comes up.

Emilio Galanda (154 Meadow Lark Rd) asked the proper format to request a street to be paved. Meadow Lark Road has not been repaved in seven years. Being a dead-end road and where they push the snow has a significant amount of glass which most likely was mixed with the salt. The problem with using that is he said his kids fell a on the road and they have been picking glass chards out of their hands and knees. A couple of weeks ago his son fell on a scooter probably less than two miles an hour and he had to be taken to the hospital to get the glass chards out of his knees and hands. He said he would appreciate if there was a possibility to have Meadow Lark Rd. swept because of the accumulation of the glass. A resident living there said the sweeper probably would not be able to pick it up because it has accumulated in the cracks in the road and along the edge of the road.

Mayor Brescia responded saying repaving a road is done on an as-needed basis. As far as the glass on the street, we have ceased using it. It was a mixture of salt and glass mixture used on many of the streets. DPW Supt. Nelson said he will have it powered washed which should help.

Richard Kurisko (Montgomery Business Assoc) made an announcement on behalf of Claire Pahucki who could not be here tonight. She is having a grand opening of Claire's Music Cupboard on Factory Street behind the Patchett House on Ward Street on Sunday from 1:00pm to 5:00 pm and invited the Board and the community to opening. There will also be a fund raiser for Brian Whittenburg who was recently diagnosed with leukemia. Money raised will be used to buy gas cards to help defray cost of tolls during his treatment. He added that Pizza Alley will be donating the hot dogs for the fund raiser.

RE: EXECUTIVE SESSION

Moved by Trustee Roepe, seconded by Trustee Andolsek, the Board entered EXECUTIVE SESSION at 8:35 pm under Public Officers Law § 7(f) to discuss personnel with Chief Corcoran and with John Luffman, Curt McDermitt, Atty. Dowd and Vlg. Clerk Thompson in attendance. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Roepe, seconded by Trustee Andolsek, the Board went out of EXECUTIVE SESSION at 9:45 pm. Motion carried 5-AYES, 0-NAY vote.

RE: POLICE DEPARTMENT – APPOINTMENT(s); PURCHASES

Moved by Trustee Roepe, seconded by Deputy Mayor Scheels, the Board created the position of part-time Police Chief (A) subject to approval by the Orange County Department of Personnel. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Hembury, seconded by Trustee Andolsek, the Board appointed John A DiMilia to the position of Deputy Police Chief (A), part time at the rate of \$22.00 per hour subject to approval by Orange County Department of Personnel, a one year probationary period, a background check and availability of hours. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Roepe, the Board accepted the resignation of Nicholas DeAntonio effective immediately. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board approved a cell phone allowance of \$75.00 for Police Chief James Corcoran. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board appointed Curt McDermott to the position of part-time police officer at the rate of \$16.15 per hour subject to approval by Orange County Department of Personnel, one year probationary period, a background check and availability of hours. Motion carried 5-AYES, 0-NAY vote.

Chief Corcoran requested authorization to purchase 32, Sig Saur P229 pistols/handgun for the Police Department that will be issued to each officer. DCJS has approved a \$10,000 grant toward the purchase.

Moved by Trustee Hembury, seconded by Trustee Andolsek, the Board approved the purchase of 32, Sig Saur P229 pistols/handgun for use by the Village Police Department and accepted the \$10,000 grant from DCJS for the handguns. Motion carried 5-AYES, 0-NAY vote.

RE: ADJOURNMENT

Moved by Deputy Mayor Scheels, seconded by Trustee Roepe, the Board adjourned the meeting at 9:53 pm. Motion carried 5-AYES, 0-NAY.

Village Clerk Linda L. Thompson