

Minutes of the Work Session and Regular Meeting of the Board of Trustees of the Village of Montgomery held in the Meeting Room, 133 Clinton Street, Montgomery, NY12549 on Tuesday, **June 15, 2010** at 6:30 pm.

**PRESENT:** Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury, Trustee Roepe; Atty. Dowd; Chief Corcoran; John Luffman; Vlg. Hist. Wild; Dawn Kalisky (Project Manager, Lanc & Tully Engineering) Joe Neumann; Johanna Sweikata; Bruce Kaufmann; Mr. & Mrs. Alden Link; Joan Garrison; Officer Neidermeyer; John Ingrassia; Richard Kurisko; Robert Kiernan; Wallkill Valley Times Reporter.

**RE: WORK SESSION**

Mayor Brescia and the Board held an on-site work session in front of 42 Wallkill Avenue. They discussed with the residents changing the parking to one side only on Wallkill Avenue between Charles and Boyd Streets. The residents present offered their input for the Board's consideration. Mayor Brescia advised the Board will look into.

**REGULAR MEETING**

Mayor Brescia opened the meeting at 7:30 pm with the Pledge of Allegiance to the flag.

**RE: MINUTES**

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board approved the minutes of June 1, 2009. Motion carried 5-AYES, 0-NAYS.

**RE: ABSTRACT NO. 06(2)-2010**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, all bills listed on ABSTRACT No. 06(2)-2010 were audited and approved for payment, subject to two trustees final review, with \$16,817.29 from the General Fund, \$567.10 from the Water Fund, \$527.68 from the Sewer Fund and totaling \$17,912.07.

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

**RE: 211-1-2-29.22 – REQUEST FOR ZONE CHANGE (Rt. 211)  
(FROM I-1 TO SENIOR RESIDENTS & MOTEL-COMMERCIAL**

Alden Link discussed a proposal to change the zoning on his property located on Rt. 211 across from Chandler Lane. He would like to change it from light industrial (I-1) to senior residences and motel/commercial. The senior housing would have about 80 units, the commercial probably 6 stores and/or offices and the motel about 60 rooms. The market for a hotel seems to be a little shaky at this time. He then proceeded to ask for the Board's feedback on the project.

Mayor Brescia asked Atty. Dowd how the zoning would apply. Atty. Dowd said the senior housing would fall under the senior overlay district and the commercial part and

the motel would fall under a floating zone known as the PDD (Planned Development District). Under the Senior Overlay District 24 units are allowed per acre with a minimum of three acres. Also, probably a tax credit would apply to the development.

Mayor Brescia said as before, he would be in favor of senior housing if the commercial part preceded it and asked how the rest of the Board felt about the project. If the senior housing is considered, the Board most definitely would want to see the other projects built by that developer. The Board has done that in the past with the other senior housing projects built in the Village.

Trustee Roepe pointed out the motel may have an affect on the bed & breakfast in the Village. The Board would need a plan to show the commercial along with the other.

Trustee Hembury added the senior housing looks nice as it is built, but expressed his concern how the present Board would look at it as time goes on if the senior housing was approved next to an airport. Who knows what kind of planes will be flying into the airport in the future. You have people living there and they are trying to watch TV and the planes are flying over and they probably would be saying at that time 'who authorized this project knowing the airport is right there'. A hotel would be different, people come and go and don't stay for a long period of time. He does not want to see the Village divided as what has happened with the upgrade of the power lines. The project was approved years ago with the power lines going through a housing development which caused problems in the future. Mr. Link said he has thought about the planes too, but the way the runways are designed they would not be flying over buildings. Atty. Dowd mentioned as point of interest a hotel is planned on the corner of Goodwill Rd. and Rt. 208.

Deputy Mayor Scheels advised that she would prefer senior housing over apartment houses along with the commercial.

Trustee Andolsek likes the idea of a hotel along with commercial.

Mayor Brescia asked Mr. Link to present the Board with some type of schematic plan with a couple of different options for the Board to consider . . . Mr. Link responded saying he will put together a plan to come back with for the Board to review.

## **RE: TIME WARNER CABLE FRANCHISE AGREEMENT**

The Board acknowledged a Time Warner Cable Petition for Special Relief before the Federal Communications Commission. Mayor Brescia asked Atty. Dowd to update the Board. Atty. Dowd reported to date he has not received a response from the last letter sent to Time Warner.

**RE: AHRB GUIDELINES**

Mayor Brescia advised he attended the last Montgomery Business Assoc. (MBA) meeting. Some of the things discussed were the use of a carriage house. Richard Kurisko (MBA) added they have reviewed the proposed guidelines and have some minor changes they would like to see implemented. Once they are outlined, they will be given to the Board to review. Mayor Brescia said the Bicentennial Committee meets the same night as the MBA at the Senior Center and asked Richard Kurisko (MBA) to change their meeting place to the Village Hall. Richard Kurisko said that would not be a problem for them as they were talking about meeting the 4<sup>th</sup> Monday of each month to avoid confusion. Mayor Brescia added the ZBA meets that night but will be asked to designate another meeting date because they do not meet that often.

**RE: BICENTENNIAL EVENTS**

The Little Miss and Mister Montgomery contest was held at the Senior Center and the winners were as follows:

	<u>Little Miss Montgomery</u>	<u>Little Mr. Montgomery</u>
1 <sup>st</sup> Place:	Julia McKenna	Nathaniel Daley
2 <sup>nd</sup> Place:	Nickole Schmidt	Patrick Feller
3 <sup>rd</sup> Place:	Victoria Phillips	Lucas Smith

Attached are the Village of Montgomery Centennial upcoming events for July.

**RE: WALKING PATH – HUMMINGBIRD COURT**

Mayor Brescia asked Atty. Dowd’s input concerning the walking path between Hummingbird Court and the elementary school that was discussed at the last meeting.

Atty. Dowd responded saying he has reviewed the map and deed(s) of the property involved. There is nothing in the deeds that indicates an easement leading to the Valley Central property. The gentleman at the last meeting mentioned a prescriptive easement. Usually, that kind of easement is generated by a municipality taking some sort of an action to keep open or maintain what has become by the user a public path. To my knowledge since the subdivision went in, the Village has never maintained anything to do with the pathway and to my knowledge Valley Central School District either. So, as a matter of law, he believes a legal prescriptive easement does not exist as such that we could claim the easement on behalf of the public to use the path to the elementary school. The only other way for the people who want to use this path is for those individuals to have an adverse possession claim. In case laws, adverse possession claim cannot be held by the public at large. It has to be claims by individual people who have used that property who can say they are exercising their rights over that property and the other person does nothing to stop it over a period of at least 10 years. It would be a private action brought by private individuals establishing adverse possession over the property. It is very difficult to show because normally you would have your children going to the

school maybe four or five years and then they would go to a different school. No one goes to the elementary school for 10 years. If individuals think they can establish this, they can certainly do so but again it would be their action in court against the property owner establishing an adverse possession claim. They would hire their own lawyers and go through the process.

Mayor Brescia asked if the Village could be a facilitator and get the homeowner to agree to something. Atty. Dowd said as new home owner, she has a right to get people to stop using her property and the easy way to do that is for her to put a fence, but that would be her personal decision. No one wants to see someone arrested for using it, but that is her property. Hopefully, it can be resolved.

Chief Corcoran said the property owner indicated she is not interested in stopping the children, it's after school hours the teenagers are going through the path and adults as well. The cul-de-sac there is small and there is a lot of vehicle traffic in there dropping their kids off via that point.

Mayor Brescia asked if there would be a possibility of a joint claim with the school and the Village. Atty. Dowd stated we have no municipal interest in this other than keeping the peace and that is what the police are here for. I can't really see a point to spend public money on a private fence. If Valley Central or the property owner wants to put a fence on their property, they can certainly do it. Mayor Brescia said unless we want to purchase an easement, but Atty. Dowd said again what would be the public purpose.

Mayor Brescia said maybe the Village Board can look at it again.

#### **RE: REPORTS**

Chief Corcoran reported everything going along okay. The deputy police chief started work. The GEM car is patrolling the park on three shifts.

Mayor Brescia reported Ed Hoblin is working on a program through social services to provide lawn maintenance to the three villages at a substantial savings. Also, Ed Hoblin is looking at dredging the pond in Viking Heights for about \$8,500 because it has not been done in over 30 years. For that cost, it is better to have an outside firm do it rather than having the DPW do it. Atty. Dowd added dredging would require DEC permits. Mayor Brescia said they are looking into that and will be coming back with a plan.

#### **RE: JULY MEETING CHANGE**

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board rescheduled the regular meeting from July 6, 2010 to July 13, 2010. Motion carried 5-AYES, 0-NAYS vote

**RE: LOCAL LAW NO. I-2 OF 2010 entitled “ANIMALS”**

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board introduced Local Law No. I-2 of 2010 entitled “ANIMALS” to provide for better restrictions and penalties for persons who allow dogs to continually bark and set a Public Hearing on July 13, 2010 at 7:15 pm. Motion carried 5-AYES-0-NAY vote.

**RE: RENEWAL LIABILILTYI INSURANCE – SELECTIVE INSURANCE**

Joe Neumann (Neumann Agency) discussed the renewal of the liability insurance with the Board. The Village will see approximately an overall increase of 4% over last year. He has met with Deputy Mayor Scheels and Trustee Andolsek to discuss the renewal and asked the Board if they had any questions.

Moved by Trustee Hembury, seconded by Deputy Mayor Scheels, the Board accepted the Selective Insurance proposal in the amount of \$132,282.99 to renew the Village’s Liability Insurance, Police Professional Liability Policy and Public Officials Insurance including a \$4 million Umbrella Policy, effective June 30, 2010 through June 30, 2011. Motion carried 5-AYES, 0-NAY vote.

**RE: FY-2011 GRANT “ALTERNATE PROJECT”  
- WEAVER STREET WATERMAIN REPLACEMENT -**

Mayor Brescia and the Board acknowledged a letter from Co. Ex. Diana informing the Village the project - 2010 Weaver Street Watermain Replacement (Multi-Year Request) total reserve amount award: \$375,000 - has been selected an “Alternate Project” and held in reserve. No activities are to commence until the Village receives a fully executed written municipal contract with the County.

Mayor Brescia advised Dawn Kalisky (Lanc & Tully, Eng.) has been instrumental in getting bids for various projects in the Village. By moving the July meeting, we will be able to set a bid opening for the Weaver Street Waterman Replacement project with anticipation of construction beginning in August.

Dawn Kalisky explained the timetable from preparing for the bid opening to awarding the bid and starting construction to completion of the job. In order to get a quick turn around on the project review, the DOT and DOH did an extremely rapid review.

Mayor Brescia thanked Ms. Kalisky for getting the project submitted to the County and added he thanked Mayor Maher, Village of Walden, for deferring their Community Development grant which helped us to get funding for ours. If the project comes in under the grant award, maybe the watermain can be extended to Pleasant Ave.

Dawn Kalisky said the 6” line is being replaced with a 10” line. The line on Pleasant Ave. is 8” which is not much different in cost to go from the 6” line. Being replaced is about 2.000 linear feet of water main. The current line connects to an 18” main that come

directly from the Holt Well. The cost estimate for the project came in at about \$356,000. If the bid comes in under, it could be possible to do a change order and went on to say if the funds are available the line could be extended as they always make provisions for future extensions.

Trustee Roepe said it then sounds as if the Village could quantify moving forward if the bid comes in under the grant amount.

Mayor Brescia stated the project is on track and thanked Dawn Kalisky.

Moved by Trustee Hembury, seconded by Deputy Mayor Scheels, the Board adopted a SEQRA Negative Declaration for the FY-2011 CDBG Weaver Street Waterman Replacement. Motion carried 5-AYES, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board set the Bid Opening on July 9, 2010 at 2:00 pm to receive bids for the FY-2011 CDBG Weaver Street Waterman Replacement. Motion carried 5-AYES, 0-NAY vote.

Moved by Trustee Andolsek, seconded by Trustee Hembury, the Board authorized Mayor Brescia to sign the FY-2011 CDBG Weaver Street Waterman Replacement Agreement between the County of Orange and Village of Montgomery. Motion carried 5-AYES, 0-NAY vote.

**RE: WATER/SEWER BILLS**

Moved by Trustee Hembury, seconded by Trustee Roepe, the Board approved to extend payment of the June water/sewer bills without penalty through July 6, 2010 due to circumstances beyond the Village's control. Motion carried 5-AYES, 0-NAY vote.

**RE: POLICE DEPARTMENT RESIGNATION**

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

**RE: PUBLIC PORTION**

**Robert Kiernan** stated due to recent sewer backups on River Street he was asking if the Board could work on a solution to help out the homeowners. He also expressed discontentment in the way the Boards fills vacancies on the different Boards and recommended they be opened up to the public.

Mayor Brescia and Board said it is an unfortunate situation but they will look into it to see if they could do something. The DPW has a sewer jetting maintenance program in place and continually inspects grease traps.

Mayor Brescia advised such vacancies are the Mayor's appointment according to Village Law but he has received Board approval. Deputy Mayor Scheels confirms saying it has been mentioned at multiple meetings if anyone was interested to submit a letter to the Village office. The letter submitted was from Wilhelm Noorlander who was subsequently appointed to a Board.

**RE: ZONING BOARD OF APPEALS APPOINTMENT**

Moved by Trustee Roepe, seconded by Trustee Andolsek, the Board appointed Gillon McAdams as a Member of Zoning Board of Appeals to fill the vacancy created by Walter Lindner term expiration April 2, 2012. Motion carried 5-AYES, 0-NAY vote.

**RE: PUBLIC PORTION**

**Bruce Kaufmann** (156 Mason St.) inquired about the project proposed for the old lumber yard on Railroad Avenue. He stressed the neighbors would like to be taken into consideration when designing the project and for the project to be compatible with the Village of Montgomery. Also, he said he would like to see the buildings that are there now be maintained so they do not become run downed and not maintained.

Deputy Mayor Scheels, Trustee Roepe and Trustee Hembury agree after meeting with the engineer of the project (Engineering Properties, PC) that apartments and three-story building do not seem to be compatible with the Village of Montgomery and Deputy Mayor Scheels said the engineer was asked to go back to the drawing board and present a plan more suitable to the Village.

Bruce Kaufmann advised he will be following the project and thanked the Board for their continual interest in the project on behalf of the residents.

**RE: EXECUTIVE SESSION**

Moved by Trustee Andolsek, seconded by Trustee Roepe, the Board entered EXECUTIVE SESSION at 9:06 pm under Public Officers Law §7(f) to discuss police personnel with Chief Corcoran Atty. Dowd, Village 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 9:23 pm. Motion carried 5-AYES, 0-NAY vote.

**RE: ADJOURNMENT**

Moved by Deputy Mayor Scheels, seconded by Trustee Roepe, the Board adjourned the meeting at 9:24 pm. Motion carried 5-AYES, 0-NAY vote.

---

Village Clerk Linda L. Thompson