

Minutes of the Public Hearing for an Introductory Local Law of 2023 Establishing a Three-Month Moratorium Prohibiting the Review and Approval of Certain Land Development Application, of the Board of Trustees, of the Village of Montgomery, held at the Montgomery Senior Center, 36 Bridge Street, Montgomery, NY 12549, on Tuesday, November 21, 2023 at 6:30pm.

Present: Mayor Brescia, Deputy Mayor Andolsek, Trustee Hembury, Trustee Lindner (Absent), Trustee Picarello, Atty. Will Frank, Deputy Village Clerk Murphy, PB Chrm. Conero, Don Berger, Cynthia Nokland, Mary Lippincot, Johanna Sweikata, Walt Pahucki, Sue Hembury, Al Baty, Sylvi Rainaldi, Karina Tipton, John Cappello, Skip Chambers, Amy Frisbie, Bob & Cindy Reynolds, Mike Setteducato, Peter Bambino, Acquisitions Marking Videographers William Ibberson and Jose Rojas.

CALL TO ORDER – PLEDGE OF ALLEGIANCE

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

OPEN PUBLIC HEARING:

Moved by Deputy Mayor Andolsek, seconded by Trustee Hembury, the Board opened the Public Hearing for Introductory Local Law 4 of 2023 at 6:38pm. Motion carried 4-Ayes, 0-Nays, 1-Absent (Trustee Lindner).

Mayor Brescia asked Deputy Village Clerk Murphy if all the proper papers were filed to hold the public hearing.

Deputy Village Clerk Murphy replied, yes, all the proper papers were filed.

Atty. Frank said, the purpose of the public hearing is to establish as written right now, a three-month moratorium prohibiting the review and approval of applications, certain land development applications in the Village of Montgomery and as the legislative findings section notes, the villages water supply is at a critical point and the purpose of the moratorium long and short of it is to place a halt on the approval of certain applications until the Village gets a better handle on water sourcing and how they're going to deal with the various projects that are before the planning board; contemplated projects and things of that nature. The purpose of the public hearing is to hear the board, discuss the matter, and to hear any comments from the public with respect only to this proposed local law at this time.

The mayor opened the public hearing for public comments, limited to 3 minutes per person.

Don Berger – He said, at the October 17th meeting, I agree with the moratorium because I believe they desperately need it, but as I said at that meeting, I do believe it should be extended. I had suggested a year and whether it be a year or six months, but I certainly think three months is not adequate at all. I don't think three months does anything for the problems we're having with water at this time. The other aspect, that I think extending it a little bit longer, as I said at the October 17th meeting, gives you guys the ability to, during that period, decide whether we need to continue with the moratorium or not. You could make that decision as a board, and if you need to cancel the moratorium, you can cancel the moratorium at any time. The problem with the three-month, Steve, I believe, is that it's not cost-effective to the Village. You're going to have to pay every time you want to flip it three months, whether it be on the legal end of it or wherever it is you've still got to pay out money. So, why are we paying out money, Steve? I believe that me and you are thinking the same thing but from different directions and I know that you're searching for water now. I know that you haven't completed that yet, I don't believe, but I think even Buddy said, at the meeting on the 17th, that it could take up to three years to get this resolved. We have the Hoyt well, as you all know it's been going on almost a year now and that's not resolved, so, I just think that you should extend it, I

suggest a year and you guys as a board could work to reduce it if needed; if not needed you just let it play out for the year. Again, my second choice would be six months but certainly not three months. I hope you guys would consider that.

Karen Tipton – 225 Union Street – She said, I have some questions specifically related to Section 3 and they do go in alignment with Don’s suggestion that this should go for longer than three months preferably a year at least. This specifies that the village will take a comprehensive review of the water supply and ensure the short- and long-term reliability of its water supply to all property owners current and existing in the Village. I have questions on how this will actually happen? Who will do this review? Will you contract out for professional services? Will this require sampling geologic investigation? Will you have to pull in other subcontractors to do exploratory work? I would think that would ensure for the long term you would have to find something that's pretty iron clad. And, as a taxpayer, I'd like to know how this is going to be paid for. To get anything done and I'm a professional engineer in a consulting capacity, to get anything done under short notice costs money, and as a taxpayer I would rather that you took longer to do it the right way, to build out a strategy to put together a real plan to with the consultants are going to be and to understand how we're going to fund this as a Village. It would require a full year to do that in a really thoughtful way. I also would like to make sure that any kind of final determination includes costs for any of the recommendations so that the Village board can make a really good decision based on a cost basis if there are recommendations for additional wells or partnerships with other communities around here. I think that's a really important piece of information that you need.

On Section 4, I would suggest defining the term “new use” which is used under item A4, Section 4 just to be super clear what a “new use” is for the use of the building department. If they do have to issue a certificate of occupancy or certificate of compliance.

And then Section 7, for the hardship, if you must keep this at three months, I suggest you strike this section entirely. The time frames that are outlined in the hardship section gives the village board 45 days after receipt of the completed application to schedule a public hearing with five days written notice in a newspaper then to hold a public hearing so we're already 50 days if you can get it done that quickly, .and then thirty days after the public hearing. We're talking about a month and a half if you stick to these deadlines and I understand these are the outside time durations these are what you would be held accountable to but for a three month moratorium, to use half of that time through an application process, will just distract you with a very real work of understanding how to ensure a solid water supply for us as Village residents and businesses to operate in the Village. Thank you.

Mayor Brescia said, before the next speaker, I will clarify that I'm going to request to the Board that we make this a six-month water moratorium. You did ask for a two-year moratorium, not a one-year. They did receive a letter from the Planning Department suggesting that we not make the moratorium too long, but the Board can decide to extend it after six months. That's going to be my suggestion.

Trustee Hembury asked if he could make a positive comment. I appreciate what you're saying (to Ms. Tipton) and I appreciate what you're saying, Mr. Berger. However, 8 months ago I disapproved of the project on Railroad Avenue. The number one thing is we didn't have the water. You thought it was a good idea and now you're on board and I think this is good. We don't have the water, that's why I didn't approve Railroad Avenue and I didn't approve Factory Street, but I respect everybody's opinion. But I saw this coming.

Dan Byam – 92 Union Street – I don't know what the water situation is I mean it's supposedly dire, but I don't know how that translates into how many gallons we have, how many gallons we have in any particular time frame period, of you know the year or whatever, it fluctuates so on and so forth. I know the years we've lost water supply, wagon wheel apartments the old brick house, there that was a source that we lost

and you know, maybe that could be brought back on, I don't know, there's a development there now but maybe still be brought back on, it wasn't there years ago. But I agree with Mr. Berger that you know, three months really doesn't...it sort of encourages people that have, you know, proposed plans to...okay, three months left I'll submit it and then you get into a whole organized, I want this, you know Bill has to deny it, you know so forth and back and forth. It should be at least a year moratorium. I'd like to see more figures as to the actual water supply; you know, how many gallons we have, when are we really lacking in water, when do we need more, what is proposed the solutions are that everyone involved is searching for. There's a lot of stuff that's just up in the air and I don't understand it and I wish I did, but it should be at least a year, maybe two years. I agree, you know that we have a moratorium to get a handle on otherwise you're going to encourage people to make some issues. That's all I have to say. Thank you.

John Cappello of J&G Law and resident of Village of Walden. First, I just for the record say I want to agree with Don and say Happy Thanksgiving to everyone. I'm here on behalf of KSH, just so you know put in some concerns. They've had an application before your Board, probably close to two years. I did notice there is an exemption for a certain date but the date is blank in your laws to when there was exception, which would have a lot to do as to what I would, you know, have to say but you know I agree you know you need to have water and that water needs to be safe so having a moratorium to say no building permits will be issued until we solve the problem or even know final approval or map sign, but to say someone given the length of the review process in New York State, to say we're not going to take or review any applications now you're in, especially if you have a moratorium for six months or a year, now you're putting people who want to improve their businesses or apply to the Board, behind the 8 ball because they have to wait that whole time to start the process which could take another year or more so I would ask the board to reconsider that. I would ask them to acknowledge those who are here because while you're reviewing, as is Ms. Tifton said, some of the costs and some of the information you will have from the people in the review will be information you could use to maybe identify a source of water or identify ways to take it. For instance, KSH sounds like a big development but for a distribution center, the water level of that entire development is about 11 four-family homes. There's not going to be much difference that you would zone it but they review they could obtain the information that could help you in your decisions. I would just ask that the Board consider those applications that may have been before your Board for an extended period of time, to continue the review of that if you determine that we're not going to issue building permits for that until we know we have a water source. I can't argue that we want safe water but I would ask that you make accommodations in that law, provide a date that would allow those who have been before the Village, working with the Village, to get the approvals allowed to continue and also maybe consider for new people to come, at least for them to start the process, get the information before the Board so you have a fuller picture as you do your deliberations.

Mayor Brescia asked Atty. Frank to clarify if they are in the pipeline or in the process, that they could continue on.

Atty. Frank said that would be up to the Board, based on the language that the Board ultimately decides here.

Mayor Brescia said, right that shouldn't be halted, we discussed before...

Atty. Frank said, we can consider that before the Board.

Trustee Hembury asked what this is.

Mayor Brescia said, if the project is before the Planning Board, when it's in the planning process...

Trustee Hembury asked, would Orange County stop us though, because Orange County is the one who stopped us.

John Cappello said they don't stop the review, ultimately yes, before you can turn the spicket on you need health department approval you need to demonstrate you have the water.

Atty. Frank said the moratorium can prevent issuance of final approvals and building permits but if the Board wishes the applications can continue through the review process if that's what you want to do.

Mayor Brescia said I certainly hope so, that was the intent.

Atty. Frank said okay, well then, we may have to change some of the language a little bit.

Trustee Hembury said I just don't want to drink sulfur water.

Al Baty – Union Street – what's best for the village residents as well as this village, is that the moratorium be for a minimum of a year. The water issue is there. The hydrolysis report that you folks got, and I foiled a copy of states by your hydrolysis that incomplete data was submitted. Moving forward, the numbers supplied by others shouldn't be relied on. The wells definitely can be investigated moving forward but with the help from Orange County and New York State DEC on board, otherwise you as board taking the comprehensive review of its water supply and assess whether current measures being taken by the village are sufficient to meet anticipated demands don't cut it. Until the Department of Health and DEC are on board and they say yes to these wells and whatever else, that you have the water to move forward on these future housing projects and stuff, I feel a minimum of a year moratorium because once you got the department health involved and the DEC, a year is going to look like child's play.

Don Berger – I just want to remind this Board I had discussed with all you guys that I asked you guys twice to read the aquifer report. The KSH project Steve, all of you have to understand, the KSH project is on top of our aquifer. There's going to be contamination to our water supply during the construction phase of this building and it may maybe further. I personally, in fact the planning of with KSH has been postponed three to four months we haven't been at a meeting and one of the issues, there were four issues that the planning board agreed to one was the water and the aquifer so this board really has to understand what you're getting yourselves into when it comes to KSH and what Mr. Capello is telling you to ask for here. It's on the middle of our aquifer. It's going to contaminate in part our already limited water supply so I'm urging you guys to do your homework and know what you're doing on this one Steve, this is a big time and I'm going to bump it back up to a year, it's got to be a year. This whole idea we haven't even discussed the aquifer other than the map that I brought into the Planning Board. We haven't even got into full discussions on that because we've been doing this noise study. The aquifer's up next and if you're seeing the study in which was submitted to this Planning Board does not show where the aquifer really was not until I provided the county map is when this Planning Board was seeing where the aquifer really was, so the report that they got was not accurate. I just urge you guys, this is the third time, look at that report.

Trustee Hembury said, I've done my homework. I was against this from the beginning.

Bob Reynolds – 76 Weaver Street – I know I had suggested this back when the Medline project was being built that we have the water line that came from the town to bring that up and hook it into the Village. I don't know if that's ever gone forward or not or any more discussion on that but that would be a backup plan for us and the town to both have water sources there. Also, obviously, I used to live on 17K forever and it was always discussed that there was a master plan of a water line coming from Scotts Corners down. It was going to be a tower up there at Scotts Corners, it never got done and that was going to feed 17K and also feed the Village. Again, I don't know if that's been discussed I'm going forward with that; two good

water sources that would back up both the town and the Village. I hope that that gets considered. We talk about things and never get it done and you've got to have that done first before you can start building and doing this stuff. KSH, great idea that they got an aquifer there. I'm sure you had said they're in the pipeline. I don't know if that was a play on words but maybe they're the pipeline to get us water.

Mayor Brescia said, if there's no other comments, I'll entertain a motion to close the public hearing.

CLOSE PUBLIC HEARING

Moved by Deputy Mayor Andolsek, seconded by Trustee Picarello, the Board closed the Public Hearing for an Introductory Law to "Establish a Three-Month Moratorium Prohibiting the Review and Approval of Certain Land Development in the Village of Montgomery," at 6:58 pm. Motion carried 4-Ayes, 0-Nays, 1-Absent (Trustee Lindner).

Mayor Brescia said, we will be adjourned for the public information meeting at 7:00 pm in conjunction with the Town of Montgomery Board Supervisor Feller and Town Board Members.

Tina Murphy, Deputy Village Clerk

Minutes of the Joint Informational Meeting Regarding the Annexation of Town Property into the Village with the Town of Montgomery, of the Board of Trustees, of the Village of Montgomery, held at the Montgomery Senior Center, 36 Bridge Street, Montgomery, NY 12549, on Tuesday, November 21, 2023, at 7:00pm.

Present: Mayor Brescia, Deputy Mayor Andolsek, Trustee Hembury, Trustee Lindner (Absent), Trustee Picarello, Atty. Will Frank, Deputy Village Clerk Murphy, PB Chrm. Conero, Don Berger, Walt Pahucki, Sue Hembury, Cynthia Nokland, Victoria Seaman?, Colin Fischer, Karina Tipton, Sylvie Rainaldi, RJ Smith, Jay Samuelson, Dan Byam, Nick Fitzpatrick, Richard Niedermeyer, Scott Meyer, Amy Frisbie, Bob Reynolds Sr, Sophia Romano, Joe Keenan, Sid Vanderley, Johanna Sweikata, Jared Casteneda of Wallkill Valley Times, Ron Feller, Cindy Voss, Michael Setteducato, Carol Monroe, Mary Lippincott, Daniel McDermott, Madison Greene, Acquisitions Marketing Videographers William Ibberson & Jose Rojas.

CALL TO ORDER – PLEDGE OF ALLEGIANCE

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

OPEN JOINT INFORMATIONAL MEETING

Mayor Brescia laid down some ground rules. RJ Smith is there to answer questions with Jay Samuelson, Nick Fitzpatrick and John Cappello. He and Ron will jointly run this meeting and whoever wants to ask questions or make comments, please limit it to 3 minutes and try to make it, if somebody asks a question let's not try to repeat the subsequent speaker to that speaker. Let's just try to have a calm meeting. This is basically on the proposed annexation; we've had an application filed with the Village for many months now and this is finally the public information meeting. The Boards don't have a stance on this one way or the other right at this point. There are some merits to it and there are some, probably some negatives as well. So, we want to hear what they're presenting and open it up to public questions.

Atty. Frank if they could just note, Mr. Mayor, this is not the joint, the official joint public hearing, this is just an informational meeting tonight. There will be a subsequent, as required under general municipal law, there will be a subsequent joint public hearing which will be part of the record and neither board can vote on anything this evening because this is not a scheduled public hearing. It is just an informational meeting for both boards and for the public. And also note that I will more than likely be asking the Town Board to have Planning Board Attorney Hoyt, represent the Board on this one because my firm has done work in the past for the applicant. Thank you.

John Cappello of J&G Law. I'm here today on behalf of Nick Fitzpatrick, Aden Logistics, the owner of the parcel of land in question. I was going to leave with what Will just said. This is an informational meeting. It's not the official public hearing. The annexation process will require each Board to hold a public hearing you can do it jointly as we move through. It will require the Board to conduct a SEQR review. So, what we're here tonight is just to express the ideas. Nick is going to provide his vision of his property and discuss the fact that just the way this is situated with the municipal boundary as many of you are aware from the food pantry, you have roads that start into town go through the village and then end up in the town so wherever this parcel is located, or whatever occurs on it, it probably makes a lot of sense to have it in one municipality as it relates to water sewer use just for a more cohesive development in whatever you arrive at. The other issue Nick is going to explain and then RJ will supplement and then we have Jay who will present the plans, is different development options. There's a unique opportunity that Nick and RJ want to pursue that will take some action from the Board. You know I have been up here before at meetings telling boards that you know it's in the law, this is what you have to do, but the purpose of this meeting is to say you have the ability to do it. I'm not going to come here and stop and say you have to do it, but we

believe, and the team believes, it could be a good idea with many benefits for the Town and Village. So, we're just asking you to listen and consider it. We'll consider the issues from the public and move forward. With that, I'm going to introduce it over to Nick.

Happy Thanksgiving everybody, I'm **Nick Fitzpatrick**, local landowner in both the Town and the Village of Montgomery, as John just spoke. With me is RJ and Jay Samuelson. I appreciate the opportunity to speak tonight. I appreciate everybody's time here. We're here to transparently inform the Board and the public of several possible options for the future of the 111 acres of industrial zoned land located between the Medline building and the Food Bank on State Route 416. I think it's right there on the map. So firstly, as John said, the land is bridged between the Town and the Village with 88 acres in the Town and 23 acres in the Village. The access road starts in the Village and then goes into the Town. For reasons of simplicity and services, we would like to annex the entire acreage into either the Village or the Town to have access to utilities from either one. There could be significant benefits in the form of future ratables for the local taxpayers of either municipality, whichever one the acres annex into.

Secondly, in always seeking the highest and best use of the land, we'd like to present two future development options for the entire site. The first option as it's now zoned would be a corporate park consisting of approximately 17 buildings ranging in size up to the maximum allowed in the zone of 80,000 square feet. The tenants would likely be a combination of distribution, manufacturing, trucking, and other allowed uses in the current zone, and this would take place over some time. The second option would require variances or concessions from the municipality. This option would be to have one single building of 1,000,000 square feet, similar to Medline that's next door. Under this scenario, the existing infrastructure on the site would be changed and a single project would take its place. We've discussed this option with several interested parties and have presented a possible 5-million-dollar community benefit fund for the Town and the Village to use for any public use needed. Under either scenario, we'd also like to offer a possible site on the north side of the property for a water well development. There're several proven wells right across the line on the Devitt property that I think we're aware of and there's pretty easy access to Chandler Lane to tie into the water main. I've settled in my mind that both use options have the highest and best use of land for us and I would be pleased to go either way, but there is pros and cons with each option that may be considered by the neighbors. We're here to answer any and all questions you may have while we prepare to take a direction on the future project. Thank you.

Good evening, **RJ Smith** representing Nick, and just want to highlight some additional points of interest and build on Nick's comments. As was said by both John and Nick, the purpose of this information and the petition is to consolidate ownership into one municipality, either the Village or the Town. The petition is to have the property be annexed into the Village so all the common ownership, single comment ownership is in one municipality, the village. You want to avoid overlapping sights, as Nick indicated, and John indicated. We had a challenge with the Food Bank. We didn't want to have a building in two municipalities. We had a nice site all laid out for the Food Bank then the FAA interrupted our plan, and we had Jay and Engineering Properties reconfigure it and it was a challenge to reconfigure it in the lot that we figured is not optimal but because we wanted it to be in one municipality, not in one or the other. A couple of other examples where you have overlapping municipalities; Cardinal Healthcare, the front of the building is in the Town, the back of the building the building itself is in the Town of Hamptonburgh. Do It Best has the same configuration, the back of that property is in Hamptonburgh, the front is in the Town. Good land use planning, you want to consolidate into one municipality. Why is the petition the Village and as Nick said, he would go either way. I want to set up an opposition here as to which way to annex the Village because in talking with Nick, it made the most sense the Village had a greater impact. The Town: the residents of Walden or Maybrook or Coldenham or Saint Andrews, they're not really impacted, and this was found out

with the hearings and the meetings with Medline. You look at the audience of all the hearings and meetings that we had, it was packed with residents of the Village because the Village really has a greater impact, yet the Village Boards had no say with the Medline project, or any of the other projects. The Village needs ratables and it's stuck right now facing a challenge with this water system and not necessarily the resources to work with it. While the Village needs ratables, the Town would continue to realize revenue because the residents of the Village and the businesses in the Village still pay taxes to the Town, pay taxes to the Village, and pay taxes to the school district. An example of this is Medline. This year paid \$1,740,000 in taxes. Once the 485 B winds out over the next few years, that will go up to up with \$3,000,000 not \$1.00 goes to the Village, it all goes to the Town, school district; the County Fire department alone has almost \$100,000 annually in revenue but the Village has no revenue from that. This development of the balance of the Aden Brook property, the site is seeking an arrangement where it will have access to water and sewer. While the site's development will support the Village and its efforts to address its water and sewer needs, as Nick says, he's quite confident based upon the aquifer that they have. The Devitt family has drilled wells that tested 185 gallons per minute, which is about my understanding would double the capacity of the Villages water supply. Those two wells and that can be expanded into the Aden Brook property with the additional wellhead and very accessible to the existing water lines and the ability to loop a line because there's a water main coming down, as we speak to the Food Bank. So, for those reasons, we had determined that the petition itself made most sense to petition the property to be in the Village, however as Nick said, he's open to either alternative, but to be in one municipality, not divided by two. Jay, you have those two plans.

Jay Samuelson – (Indicating on the site plan) So, just to give everybody the lay of the land, this is the existing property this shows Nick's current facility, and this proposed Food Bank that's under construction. This is Route 416, this is 211, Chandler Lane is up here. The first plan is the one that Nike's talked about with multiple buildings maximizing out of 80,000 square feet and of course with the Village zoning code, again, these are conceptual layouts. As Nick said, one of these buildings could go away to increase or to install a well. But this was just a conceptual layout showing the possibility of multiple buildings at maximum 80,000 square feet and this plan here shows the single building that Nick had discussed. I'd be happy to stand here and flip back and forth if people have questions, to point to which one you want...

RJ – ...and accept comments on the two alternative plans. The first plan, plan A, is according to the current code; current Town code and current Village code. If we were left with the option of dealing with the two municipalities, that's what it would look like. We have buildings in the Village, we have buildings in the Town, we have the road network that goes through the Town and through the Village, so that is according to the code. It has Nick's existing property, it has the Food Bank property, so there's already two buildings; one built and occupied and one under construction that is incorporated into this plan. As it turns out, this plan generates more square footage than a single building. It also, studies will show, would generate more traffic. This would be multiple tentative buildings. This is a very common corporate park structure. We have 48,000 sq ft occupants. As Nick said, it would be varied in occupancy from manufacturing to distribution to other types of businesses and smaller businesses. This plan has 300 docks, the plan with the single building has 128 docks. This plan has 856 car parking spaces. The single building plan has 489 parking spaces. This plan at best has a 20-30 year build out; built as needed so there's constant construction. The single building is an 18 month build out. Construction is done over 18 months, landscaped, finalized, the site is prepared and occupies to the terms. We're dealing with a single building; we're dealing with one national company very often a fortune 500 company who has much deeper pockets than the multiple tenants. We have the ability to say no pilots, we have the ability to negotiate a community benefit fund, all of which we're finding and we're doing it in other communities and doing it to the municipality's acceptance, all of those conditions. With this single building plan is less land use, greater open space, more green space, more landscape space, less traffic and the assumption was when you do a master plan, you're zoning for

smaller buildings that you're necessarily going to get less traffic and less buildings. As these two alternatives play out, and studies can confirm, it's time to say the case is that having a plan with multiple buildings, to end up with greater intensity of use and the use that's much more difficult to monitor. If you have one tenant, one building, one occupant, you can deal with them one-on-one. You have 20-30 occupants, you've got to manage that and if you get some in there that aren't behaving according to the preference of the community, that can always be a headache. So, we're open to any questions or discussions anybody will have.

Mayor Brescia - I just want to make one comment, I'm going to put this out there that we would be looking more for a dedication of a well that's developed privately, rather than just land for exploration whether it's in the Town, the Village or both as it is today. I'd definitely like to see that. It's much cheaper to develop a well privately than it is publicly.

RJ – Off the point but we're doing that Pine Bush right now with this Pine Bush water district, town of Crawford and a private property owner, a client of ours, developed at newly add water supply, developed two wells he was going to sell the water to the Town, the Town wanted to buy the water, the health department said no. You've got to own the property. So, the Town acquired the property. In this case, Nick is saying that he will give the property to the Town, and I know to the Village. I know the Devitt's had indicated the same thing.

Mayor Brescia - Well, that's good to know. I think that's important.

Ron Feller – My main question is, you said there's two options: a one million square foot warehouse versus 17 smaller ones, one is according to code the other one is not according to code. So, when we have a developer or somebody that's willing to buy into a situation where he doesn't even know if he's going to get that approved, or is that going to be questioned down the line?

RJ – Well, we have had discussions with national developers. To get these projects done, you work with the national development. Nick has entered into a joint venture, long term joint venture agreement with the national developer who has tenants all over the country. Fortune 500 tenants. So, what we would do is bring to the table; not only that developer but the prospective tenant and it would require accommodation of the municipality with the zoning. If the zoning is not permitted in either municipality, the limitations...so the question will be, will the municipality in the community prefer to have one building and we'll amend the zoning of making accommodations to permit that, as opposed to the other plan.

Ron Feller - That'll be a decision that's made by the Zoning Board and the Planning Board people.

RJ - Or the Village or Town Board.

John Cappello - It would have to be a zoning amendment action of whatever municipality the property ends up in. So, it would be two steps concurrently or one step which would be an annexation and then a zoning amendment.

Mayor Brescia - The supervisor and the deputy supervisor, the deputy mayor and myself have had brief discussion on this and we talked about that host community agreement, and we had discussed splitting between the Town and the Village. But if that were to happen that would all have to be signed, sealed and delivered before the approval process in a sense or a condition of the approval. That's one of the main reasons that it would be considered in the first place. I just want to put that out there, as well.

Trustee Hembury – My concern here is you said we need ratables but at what cost? At what cost? We're a bedroom community and we're doing pretty good; I'm not going to sell the soul of the Village for ratables. Everybody would like to keep their taxes the same, down, but I don't want...you build this, you want water

right away. But say we don't get water in the ground. Say there's no well done right away. Now you're tapping and you already have a problem.

RJ - the same moratorium we don't know if this is 12 months out of 12 years out.

Jay Samuelson - The development of well could be a condition of the approval.

Trustee Hembury – I'm here for the duration. My family, the kids bought houses here. I really, really need to think about something like this.

Mayor Brescia – That's why we're here tonight. We'll open it up to public questions.

Don Berger - Montgomery - That's just an idea. Where are the existing buildings now on that map?

Jay Samuelson – This one? Right here.

Don Berger – No, I mean the existing buildings that Nick has up there already?

Jay Samuelson – Right in the middle of that one.

Don Berger - That's going all the way up by the hill?

Jay Samuelson – Correct. All the way back through.

RJ - That building would go away.

Jay Samuelson – For this plan, the building would go away right. For this plan, the existing building would be gone.

Don Berger – Alright. So, it's kind of weird for me to say but I am in favor of this project or this annexation. There's a lot of good reasons why I believe this can and should go into the Village. Ratables are always something that's brought up. It's funny because when KSH was first brought to us, you guys loved the ratables. This is a ratable here. I did sit down with the town assessor to get an idea of what kind of money that would bring in. So, just based on four walls, nothing in the building, just based on four walls, that would bring in \$495,000 at 900 square feet, that's the number we used.

Mayor Brescia - 900,000.

Don Berger – Excuse me?

Mayor Brescia – 900,000

Don Berger - What did I say? I'm sorry. The other thing that you know you guys mentioned Medline. Medline, I and my co-chair is over here, came to the Village Board many, many times arguing about Medline that we believe that the Village Board should be involved in the process, at least talk about it. What was always said, it's not our problem, it's the town. We can't do anything about it, which is true, but you could always have a conversation. This here, if you guys do decide to annex it in, it's going to give you the position that you've never had before. You guys are going to make those decisions and those decisions are going to be very important. If it's in the Town, it's just going to be worse than what we have here today. I mean, during the Medline project, myself, my co-chairs and RPM, we argued, and we came up with an agreement with Medline with traffic. And Medline, as you are well aware of Steve, they haven't had their trucks come in here like they did at the very beginning because we pushed back. Right? We pushed back real hard, and they honored that agreement. Those are the type of things that this Board has to do when this gets developed. You guys have to get proactive and set the rules and that's what I see that's not happening.

You guys have the ability to set the rules and I think what they're saying here, this group here, saying we'll be more than happy to listen to you and see what we can get out of this. So, we're going to have a great ratable here and I do believe because of all the things that you guys have talked about at Village Board meetings, water/sewer coming to town, bonds and all this kind of stuff. It's pretty sure we need some money in this Village, this is a good way of getting that money. I think to be able to control the traffic and everything else that happens in there, the design of this building, I think the Village, when you use it properly, has a much better, a much better landscape design plan than the Town does. You look at the Town buildings, they're disgraceful, they're landscape designs. We have fought very hard at the Village Board meetings talking about landscape designs. and I think in order for this to fly you have to have a beautiful landscape design in this thing. I think services, we're going to have police services and all this type of deal. I think that in your community benefit type agreement, I think you have to have the discussion that, okay, you need to pay us one full-time police officer. We need to get an additional cop out here to maintain that. We need a car to maintain that. Those are the type of things I think, perhaps the developer and whoever the end user is going to be, are very happy to entertain. I just think if you guys decide to annex, you guys got to be stronger than you've ever been and get the things you guys want and the residents of this Village. I think it is a good idea that we don't have the Medline situation happen again and put it in control of the Village. Sorry about that Ron. Thank you.

Dan Byam – Union Street - I'm an avowed capitalist so I think people should have the right to do something with their property that they want to do. At the same time, Mr. Hembury, I'm glad that you're looking at the possible consequences and saying that we really have got to take everything into account because once it's done it's done. And that much change on property so close to the Village will affect, could affect, possibly, probably will affect the water supply so you know the Village really does need to take a look at how it can change and what we can do to mitigate that. The property is subsumed by the Town rather than the Village and I agree that it be grateful for the Village but if it is subsumed by the Town there may be, rather than an outward giving to the town, maybe a permanent easement could be made so that some of those monies could come back on a yearly basis rather than just giving it out. If it comes to the Village, great. Then you know we get control. If it goes to Town, maybe it should be done rather than, as you know, a sale or annexation, pure annexation, a permanent easement. A temporary probably wouldn't work but permanent easement could work. I think you know it could be positive for the Village, but you guys are the ones who are going to make yourself.

Joe Keenan - Town of Montgomery - I didn't write anything down so it's all off the top my head, sorry. Can you go back to the first plan A? So, this plan, that's the 111 acres and 32 are in the village, correct?

RJ – 23 are in the Village.

Joe Keenan – 23, and this concept meets both the Village and the Town code? Yes? But the other one is going to require an amendment to the code and the town just went through comp plan two years ago. Then you're going in and you're going to open the door for spot zoning because everybody else is going to want to do it, #1. And #2 if it was all annexed into the Village, either way even though the Town gets some tax benefit it's greatly reduced. The majority is obviously going to go to Village, which is great for the Village, and I mean that's just the way it is with two different folks. In this concept, you both kind of win a little bit from getting the ratables; the Village gets some, the Town gets some. Maybe don't annex the whole thing and I know it's for ease and you don't want to split the line and all, but that happens, sometimes it happens. It happens with fire districts. We're in one town, go in another town and we have to have an equalization rate for taxes and it's just everything's not square here like when they built (inaudible), you know everything is square. All the counties are square down South and up here they're all however they divided rocks, chains,

links in the ground. So, I'm just asking you all just to consider all the options and all the pros and cons, that's all. Thank you.

Mayor Brescia – I'm going to ask a quick question with this scenario, the \$5 million host community agreement is not there. That's an equation that's factored into the... right that's a big factor.

Sophia Romano - I just want to ask, are these the only two scenarios we were offered?

Jay Samuelson - At this point, these are the two that we've come up with. If there's suggestions for others, they would be happy to look into it.

Sophia Romano – Yeah, there's like too many small buildings, where's the green area, where's this, where's that? You're scrutinizing in the planning board part of it.

RJ - These are plans that illustrate the difference, you know, the potential difference. We have it proved that you know, I don't want to tell the Board this is proved out a week ago, build this tomorrow. It would take a lot of engineering and discussions it's really to illustrate the different patterns...

Sophia Romano - Maybe they could show us a couple more scenarios.

Trustee Picarello - What's the average size of the buildings that are pictured?

Jay Samuelson - Max is 80. The average is probably mid-50s, I don't have the average total. They range from 25 to 80.

Karin Tipton – 225 Union Street - I have a lot of questions and my first question is this plan, conceptual plan in accordance with the Town or the Village comprehensive plan.

Jay Samuelson - We looked at the town code but this is a conceptual sketch.

Karin Tipton – Not the code, the comprehensive plan that was passed by the Town in 2021.

RJ – The Town was required to adopt zoning consistent with their comprehensive plan...

Karin Tipton – The comprehensive plan defines what I2, airport or aviation industry (inaudible)

RJ - Well what I would say is that...Karina, there's a lot to go here...

Mayor Brescia – Let's keep it consistent here.

John Cappello - I don't mean to get, you're entitled to ask all your...I'm not butting heads, I'm just trying to give you an answer. The Town was required to adopt zoning that's consistent with the comprehensive plan so when you adopt zoning immediately after the comprehensive plan, if it's not consistent, then the town would have to change their zoning. So this is consistent with the zoning and it may well, I'm not saying that this plan is consistent and wouldn't need to go for a lot of review and determination and considering the comprehensive plan by definition, zoning that was adopted after the comprehensive plan is the Town's vision of what the Town board believes is consistent with the comprehensive plan because that's what the law requires. That's what we're going off here, but any development would require an environmental impact statement and require all these questions to be addressed in sections. I can't, I'm not going to say this plan has been proved out to ask all your detailed questions. I'm sure you could have a lot of, you know, drainage it's illustrative to the two options we want.

Karina Tipton - To your point John, the comprehensive plan is illustrative of what the zoning intent should be and so if this is not (inaudible) intent of the comprehensive plan, which describes the intent of the zoning

plan as adopted, then it's not going to (inaudible) with the comprehensive plan. So, that's really all I was asking. I know the Village of Montgomery also has a hard-fought comprehensive plan as well, which I believe calls for high density mixed-use development in this area, and I don't think this is adequately described as a mixed-use development, so I was going to also ask if this meant the intent of the Village of Montgomery comprehensive plan for this area, as well. And then the same questions I would have for the second conceptual plan and does that meet the intent of the Town comprehensive plan, which it does not. I2, industry, airport industry, aviation industry is intended to minimize the amount of traffic that's going to be going around in part because of its adjacency to the Village of Montgomery, the Town (inaudible) during this development of the comprehensive plan. That was my first question.

I had a question about how many variances were expected to be required for the larger building.

John Cappello - It wouldn't be variances they would ask for, it would be an amendment to the zoning, to change the zoning to permit that. It's not permitted now, so you wouldn't ask for a variance, it would be a request to change.

Karina Tipton – So, we're not talking about (inaudible) coming in with 21 variance requests to the zoning board.

John Cappello – No, this would be a change in the law, which would require the Board to review its comprehensive plan when they adopt it.

Mayor Brescia - Can you let me back up that one? Kevin Conero chaired our master planning committee.

Kevin Conero – When we had the moratorium, there was a group of us that met. I was chairman of the comprehensive plan and we met with a group that looked at zoning and looked at warehouse criteria in particular, because of this pending KSH project. The group that was involved with that, there was 10 or 12 of us, struggled with whether to have a large building of 250,000 square feet versus the smaller corporate style house buildings of 80,000 square feet. So, what's built out there, Jay I believe 80,000 square foot buildings, because if you plan on bringing it into the Village you'd be under the industrial zone and you know the maximum size is 80,000 so if you did annex it in, you have to annex it into our current industrial zone and seek the change from there. Again, I would just like to point out that I think that the comprehensive plan group did struggle with the fact that you want one big building for or smaller buildings and it's a challenge to figure this out because it's... you can get something that looks like this, which I don't really favor that too much, because of the smaller building size. I think it's pretty maxed out but there is a lot of benefits to having one bigger building, as you heard from Nick and RJ and John, so that's why I wanted to say that. Do you have any questions for me?

Mayor Brescia – No, I saw you OK shaking your head a little bit.

Kevin Conero – No, I just wanted to clear the air.

Karina Tipton – Would you mind going to the plan...I couldn't help but notice that the (inaudible) is pretty small compared to what was required with the Medline building...

Jay Samuelson – Again, they're just conceptual in nature and were drawn for placeholders just to show... and they may be larger, they may get bigger...

Katrina Tipton – It's possible you may not have them with a building for that size. If you don't have a building that size does that put the community agreement in jeopardy? So, if you don't have room to fit it on there that might (inaudible). And that's based on New York State stormwater requirements, right? That's not a Town or Village decision at all. Well, I don't know what the negotiations of that...but it sounds like

it could be put in jeopardy. And then, I guess my other question I have is, you know, the Town does have a couple of laws that were adopted to support larger construction such as this, including steep slope protection, stormwater requirements, in that very good lighting program, and no offense if you look at Aden Brook Farm's lights compared to the Medline lights, you could see a stark difference in the brightness just from down the street, and that's that there are more protective laws in the Town than there are in the Village and I have to ask also and I mean no disrespect to this Village, I live in this Village and I love all of the people that serve this Village very much, but which planning board, which code has the capacity to address a large scale development in a way that would protect us as residents? I know that's your job to figure it out. I think that's part of your informational process, but right now, I know for sure that the Town has better laws on the books than the Village does for a large-scale building.

Mayor Brescia - Well, we can certainly try to mirror those, you know, what's been done in the Town with Medline because I think it was a pretty good job of what they did there with mitigation so...we'll come back to you Karina, you're well over your 3 minutes but if we have time, I want to give a chance for others to speak, you know there aren't that many, we'll come back to you, okay? Who else wants to ask questions or speak.

Alan Baty - Can you go back to that picture where it shows, you have the one building up there and 23 acres of Village, how does that play out?

Jay Samuelson - The one building and the 23 acres...

Alan Baty - If you drew that one building, you have the upper...

Jay Samuelson - This building? This is the Village line currently.

Alan Baty - that's the Village line. Now, that one building cannot be moved to the South to stay within the Town.

Jay Samuelson - it's again, it could be. We kind of centered in the property. We haven't gone into analyzing it for steep slopes or any of that, we just kind of put a box on the plan at this point in time to show...

Alan Baty - Okay, but if it could be moved South and kept within the town, we don't need to annex anything off Nick's property. Nick's property could stay in the town and that project has moved forward under the town's guidance. The road that comes out of that development is that the current road that we're dealing with.

Jay Samuelson - That would be the current road, yes.

Alan Baty - Okay, where's the state in here because I know they're supposed to upgrade that exchange for 416 and 211 and that road coming out into that section is going to be probably in the way.

Jay Samuelson - So, that intersection is here, there's been a bunch of, between Dunn Road, 211 and 416...

Alan Baty - The triangle there And Nick's current road isn't that far out of that.

Jay Samuelson - Correct. If there were changes that the State had with that intersection, we had to realign that driveway, that's something we would do.

Alan Baty - Alright, so barring Mr. Berger's green grass and flowers and shrubbery, I'm not in favor of the Village, annexing this property. I have a real issue with infrastructure. Mr. Berger's comments are on surface, mine related to infrastructure for water and wastewater. I think the Town has done a very poor job

for their wastewater. You folks had a plant on 416 that's permitted for 147,000 gallons. The last five months, six months, you violated the flow on that.

Ron Feller - That's not true. Go ahead.

Alan Baty – Well, according to the reports that you submit and go to the EPA, that's very true because I just pulled them up. You've also done a Band-Aid by taking help from Maybrook to take some of your wastewater issues away. You're still going to have to upgrade that plant. You were supposed to do it 2010. 2012 your permit was supposed to be finalized. It never was. You folks never upgraded. I mean you added Medline under your existing permit as a rider and that's probably why you're partly violating your permit now for flow. But that said, you folks still need to upgrade your wastewater, especially if you want to get the Scotts Corners corridor and all that on board. I don't feel that we should be looking at the Village of Montgomery as a shager (unsure of spelling). No matter how much money comes into that, I mean Steve had said that you know, the ratables all would charge your town residents twice, if I remember, right, twice the amount what you're currently paying.

Mayor Brescia - If we do a joint project with the town for an upgrade of our sewer treatment plant, which we're looking to do, but let's clarify it.

Alan Baty – Well, considering our sewer treatment plant we were supposed to upgrade it to 750,000 gallons a day back in 2014, that never materialized. I mean your permits state that, but that never happened we're still at 500,000 which we're around the average of 400,000 gallons, you know, at current build out. Once we start adding the rest of this stuff and if we reach out and annex this additional property, I see a can of worms. And like you said, as far as water, I say we don't have the water. Mr. Devitt's figures of 180 that Nick is relying on is incorrect. They're not certified. Again, the DEC and the Department of Health have to be brought online and certified. To throw those numbers out as a teaser is wrong. You folks need to make your decisions on better facts than heresy and that's what those numbers are right now, it is heresy. Whether they're from Mark Devitt, and I love Mark Devitt, but right now, there appears, and I know the lines are going in for the Food Pantry, that was a done deal, and it is what it is, but you still have the Devitt property still looking for development that's going to add. There's so much stuff around this Village it's not a quaint Village anymore.

Mayor Brescia - I just want to say something real quick. Yeah, we're going to do a joint project for the upgrade of our sewer treatment plan for capacity for the Village and for the Town regardless of this annexation. If that happens or it doesn't happen, we're still looking to do that and hopefully we will and we're going to apply for a grant next July for that purpose. I'm not going to get in tit for tat but let's be clear...

Alan Baty - Well we'll get in on that another day when the Village deeds the property for a dollar to the Town and the Town builds a new plant.

Walt Pahucki - 99 Union Street - I'm also on the Town Historical Board and I just want to bring up the Germantown cemetery that's there, so we don't forget about that. It's currently in the Town, would that be in the Village? Could it be put in that that is improved with keeping the historical integrity of it? I just want to get that on the record that that be addressed.

Mayor Brescia - I'm sure it will be either the Village or the Town. Supervisor Feller made me aware this afternoon, how the Town is responsible for certain aspects of cemeteries throughout the Town, so I'm sure that would be upheld.

Sid Vanderly - Is any of this property in the farmland preservation now, has it been? As far as I know there was a farm off of Rockefeller Lane that belonged to that. Is that part of this property?

RJ - No. It's the Miller Farm.

Sid Vanderly – I've got one comment. If this goes through, the Village of Montgomery is going to end up looking like Vails Gate, New Windsor, Town of Newburgh. I hate to say it but it's just getting too built up around here.

Colin Fischer - My family, we moved here 35 years ago, and it was a quaint small Village, you know what was a desirable place to live and I feel like since then there's been not positive growth, in such, to these warehouses and we really have to think about what is this the best we could do. Maybe bring in some, you know, tax relief here and there but is this down the road 20-30 years, is this a going to be a desirable place that people want to move to, that people want to be here or is it going to be, you know, just the next say, Vails Gate? I mean, there is this quaint Village, it's a historical Village. It's not a box store. I mean, people are going to...what kind of people do you want to attract to the Village? That's you know, is this, I guess, is this the best we could do? Is this the best we could do? I don't know. Then you said, I mean we've all lived here how long? You know, we would like to keep it that way, keep it a quaint, desirable place and unfortunately, it's not really turning into that. But then these are all the choices that we've been making over the years, and you know I'd rather keep it a desirable place and have a, you know, a tax break or you know, have some income incentives. These are all things you have to sleep with at night, and more so for you guys. Thank you.

Karina Tipton - I just wanted to close my earlier comments by emphasizing again that the Planning Board and the Zoning Board have an easier time addressing applicants if they have the weight of the law behind them. That's really why I bring up the laws that the town has are more advantageous than the Village laws and if you say that we're going to meet the standard of the town right does that mean we're going to be putting in a steep slope protection, stormwater protection, lighting requirements protection, a buffer next to a residential property. The Town has a buffering law right now and that north property line is, that's residential, this buffers residential, so right now, the Village doesn't really have, as far as I understand, a buffering law for any uses adjacent to. And so, I would just say, and I haven't read the Village law front to back, I'm a cherry picker, I admit it, but it will do your Boards a disservice if the Village takes this on without preparing them properly with the appropriate laws and zoning codes to support them. That's really what this comes down to. They don't want to have to answer a million questions from Don Berger and Karina Tipton. They want to be able to point to the law, right, you're doing them a favor in that situation.

Mayor Brescia - Do you want to say something on that, in that regard...

Kevin Conero - Part of the moratorium, when we did the comprehensive plan update, we took some of the recommendations that were in there and one of them was increase the buffer between the residential area in any industrial uses. So, it went from 30 feet to 100 feet.

Karina Tipton – Okay, was that represented on that first plan?

Kevin Conero – Yes because that is in the current law right now.

Karina Tipton – The Town has different barriers in place for different sound scaping, they've got an equation that has to be met so it's a little bit different than what you're talking about.

Kevin Conero – Right, the sound would come out of the SEQR process, not specifically the law but the steep slopes are also in there, too, I know how you feel about steep slopes.

Karina Tipton – It's all steep slopes, yeah, it's pretty steep.

Don Berger – Nick, currently that property is under four different names, correct? It's Aden Brook Agricultural, Agri Sales USA, Nelly, I guess that's your wife, and Aden Brook Agricultural LLC. Will all those go away upon the sale of those properties?

Nick Fitzpatrick - I only pay one bill.

Don Berger – I went on the tax (inaudible)

Nick Fitzpatrick – Maybe they were previous owners.

Jay Samuelson - There may be separate owners between the Village parcels and the Town parcels.

RJ – I'm not sure.

Don Berger - The other thing, the property that you have there now, is that an Ag District?

Nick Fitzpatrick - I don't believe it is.

Don Berger – So, I think you would want to find out whether it is an Ag District or not if it became a Village property because it has a direct impact on the taxes you would receive, correct?

Mayor Brescia – It certainly would but, I mean it's zoned industrial, right? I mean something is going to go there that's industrial whether it's ag-business or its manufacturing or warehousing or whatever. Everyone says well we don't want to see this; it's going to be something similar to what those scenarios are. You should know that. It's zoned industrial.

Atty. Frank - The situations they're contemplating here would not you know qualify for an AG exemption.

Don Berger - That was my question.

Atty. Frank - I think the answer to your question is no, it wouldn't be any Ag-exemption intentions for the type of use they're contemplating in either one of these scenarios.

John Cappello - The only thing that I would add, as I said at the beginning, it's your decision but if you do make that decision from a legal and it would take to go with the bigger building, it would take an amendment and in considering that amendment you certainly could take the public's input and write that amendment in a way to have stronger lighting requirements, steep slope protection. I just want to reiterate what we show here is, Nick has an idea, and he has some interest. There is a lot of work that will go into it but before Nick releases the hounds to put that work into it, if this Board says we're not interested in at all both Boards, we can't make you do it so there's no reason to put that effort. if it's something and you don't have to make that decision right at this moment but if there's something that you think warrants consideration as long as the appropriate protections are there, we can work with you to make sure the appropriate protections are there. But, if you don't want it, tell us now or we won't move, won't do the work and we'll consider options under the law.

Trustee Picarello - Should we decide to move forward, this is the type of communication and transparency we can expect throughout the entire process?

John Cappello – Yes, you're going to have to take the action to annex, you would have to take the action to amend the zoning. That's going to be a process, as you know, Will can tell you, that's going to require SEQR review where we're going to get the comments. I imagine it's going to be a draft

environmental impact, so there's going to be a process here. It's not going to be an overnight identify. I didn't know there was this cemetery there, obviously that's an important issue that has to be incorporated in the design. And as we go through that process, if it turns out it's only a 400,000 square foot building that could be don't fit there, then that's Nick's risk.

Mayor Brescia - This scenario plays out after the first of the year. I won't be on the Village Board much after the first year and you know we'll have to have a joint meeting to review the application. We have the application in the Village, but I don't know if we need to review that before we have a joint meeting with the Town. And the Town Board has to be amenable to the annexation, but I will say, I do like the aspect of being annexed into the Village rather than the Town because as Don said, and others have said, the Village is impacted much more than the town on this and the Village would have no say if it's in the Town. We'll have a lot to say if it's in the Village, but the Town wants to protect their tax revenue to an extent with the host community agreement and other amenities, you know, because the Town residents are impacted, as well. So, that'll be for further discussion. I think we've had good dialogue here tonight. We don't have a clear direction yet, but I think the Village Board will discuss it after the first of the year and the Town Board will discuss it more.

Ron Feller - Just one other point, you didn't bring up the noise. I just really can't comprehend 17 80,000 square foot warehouses, the noise factor between 17 of them or one that we'd be able to deal with. So we have a noise law and lighting and trucks going back and forth. I mean, this is just my own personal opinion, but it makes a little bit more sense to have one than 17. My ultimate goal would be, if you're going to go to the Zoning Board, zone it for like a corporate medical park or something like that.

RJ - Hundreds of thousands of square feet within a reasonable distance a year are vacant, including class A medical space.

John Cappello - My last comment for the Board, I know people don't want to see warehouses but part of the reason you see them is because the infrastructure they need for water and sewer is probably the lowest of all the uses, including residential. You want to attract those other uses, I'd be happy to bring them here but you need to produce water and sewer to attract those types of uses and so that's all the more reason and that's part of the reason you don't have the usage, because there's reluctance to invest in that infrastructure.

Trustee Hembury - I'm not trying to be rude here at all and you don't have to answer but can you tell us what towns you live in?

John Cappello - I live in the Village of Walden.

RJ - I live in the Town of Crawford, but my family moved to Montgomery in 1712.

Mayor Brescia - If there were residential it's going to be a huge amount of traffic and impact on water and sewage.

John Cappello - And just in that context of water and sewer, that's all I'm saying. I'm not telling you have to do this but I'm going to say for context of water and sewer they use the least amount of water and sewer. Traffic is another issue, there are loads of other issues but on those two issues these are the lowest uses of water and sewer.

Mayor Brescia - Thank you for coming tonight.

Moved by Deputy Mayor Andolsek, seconded by Trustee Hembury, the Board closed the Joint Informational Meeting with the Town of Montgomery Board, at 8:03pm. Motion carried 4 Ayes, 0 Nays, 1-Absent (Trustee Lindner).

Minutes of the Regular Meeting of the Board of Trustees, of the Village of Montgomery, held at the Montgomery Senior Center, 36 Bridge Street, Montgomery, NY 12549, on Tuesday, November 21, 2023, at 8:11pm.

Present: Mayor Brescia, Deputy Mayor Andolsek, Trustee Hembury, Trustee Lindner (Absent), Trustee Picarello, Atty. Will Frank, Deputy Village Clerk Murphy, PB Chrm. Conero, Don Berger, James Martinez, Sue Hembury, Cynthia Nokland, Karina Tipton, Sylvie Rainaldi, Jay Samuelson, Scott Meyer, Amy Frisbie, Bob Reynolds Sr, Sophia Romano, Mark Hoyt, Johanna Sweikata, Jared Casteneda of Wallkill Valley Times, John Kitchenman, Joan Christiano, Christa Bambino, Mary Lippincott, Nick Picarello, Mae Picarello, Madison Greene, Theresa Espinoza, Allison Conero, Andrew Conero, Acquisitions Marketing Videographers William Ibberson & Jose Rojas.

CALL TO ORDER – PLEDGE OF ALLEGIANCE

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

MINUTES

Moved by Deputy Mayor Andolsek, seconded by Trustee Picarello, the Board approved the minutes of October 17, 2023. Motion carried 3-Ayes, 0-Nays, 1-Abstain (Trustee Hembury), 1-Absent (Trustee Lindner).

ACCEPT WALTER LINDNER’S RESIGNATION

Mayor Brescia reads Trustee Walter Lindner’s letter of resignation:

Village of Montgomery Clerk, Monserrate Rivera-Fernandez:

I am regretfully resigning my position as a village of Montgomery board member effective immediately. Due to my continuing health issues, I am unable to complete my obligations. It has been my distinct pleasure to serve on the Board of Trustees for the past years. I'm proud to have been part of the democratic process that has and will continue to govern our wonderful Village. I have, during my tenure, been a part of many changes and projects that have impacted our lives. I've always tried to research when possible, so as to make the best decisions for the greater good of the Village. It is difficult to please all the people all the time. I'm comfortable with the choices votes I've made having done my best to look at all options. I am confident that you will make a good choice in finding a replacement for my position. Sincerely, Walter Lindner

Moved by Deputy Mayor Andolsek, seconded by Trustee Hembury, the Board accepted the resignation of Walter Linder. Motion carried 4 Ayes, 0-Nays.

Mayor Brescia I just have to say, Trustee Walt Lindner was a pleasure to serve on the Board with. Walt served on the Planning Board many years ago, I believe the Zoning Board of Appeals before that, the Montgomery Fire District, he chaired the bandstand committee; we have the most beautiful bandstand in the County of Orange. He was very involved with Marianne and my sister on the bicentennial, especially the music, very dedicated. And Marianne was with him, just like Sue Hembury is with Mike on so many endeavors and you couldn't keep the two apart. He was working with Brian Fitzpatrick on the bypass for 211. Many meetings with New York State, DOT and Will Frank and others. He helped the plan the Senior Center Addition, which is going to go back here, which I just had a follow up meeting with Buddy and Greg Wantje on Walt concerns are definitely going to be in that addition and we plan to proceed with that. He volunteered countless hours to the General Montgomery Day Committee on the parade and also on the Memorial Day parade committee, The Breakfast Club and so many others. He volunteered countless hours in our community. He coached Little League, was involved with St. Mary's Church, was a strong contributor and idea portion for the original pickleball courts and strongly supported the new pickleball courts as well. He was a true gentleman or is a true gentleman in every sense of the word; very humble very soft spoken,

easygoing, respectful, he poured his heart and soul into the position of Village Trustee and I know the Board is sorely going to miss him on the Board and I thank him for his service and our prayers are with him every day and they will continue to be.

Atty. Frank – I had the pleasure of working closely with Walt on a few matters, the various contracts for the village, the dot project with Brian, and you know I represent a lot of municipalities and through my work I meet a lot of people who are elected officials, appointed officials, and Walt, during the unfortunately brief time I had to work with him, really defined what a public servant is supposed to be, because that gentleman cares about this Village, cared deeply about the job he was doing, and always, always, always tried to do it to the best of his ability, so even in the brief time that I did have the chance to work with him, he exhibited those traits, and it was clear how much he loved his Village, and he loved the residents and still does. And it was a privilege from my chair to be able to work with someone like Walt and I think we all owe him quite a bit of gratitude for the work he did for this community, and I just wanted to say that. Thank You.

APPOINTMENT OF KEVIN CONERO TO TRUSTEE

Mayor Brescia – I'm going to appoint tonight, Walt's replacement on the Village Board and that person will have to run in March for a one-year term of Walt's term. That person is Kevin Conero. He's sitting out there. Kevin has dedicated more hours to the Village volunteering and on the Planning Board, than just about any person in the Village. He's a past chairman of the ZBA, he served as chairman of the Planning Board for 30 plus years, chairman of the Comprehensive Plan Committee since 2008, chaired the historic guidelines update committee, chairman of the zoning changes committee during the moratorium, coordinated with the New York Forward Grant, consultant for Downtown Revitalization, General Montgomery Day Coordinator for over 30 years for vendors; I believe it's over 30 years if not it's close to 30 years. He's a very organized individual, good temperament, I feel comfortable with him coming on to the Board as an easy, seamless transition. He's very knowledgeable in IT, which is what we need. Willing to help out Trustee Picarello pointed out some organization things we need at the village hall which we'll delve right into that. you know things can't be done today as they were twenty or five or thirty years ago but Kevin is very knowledgeable about computers and IT and I think he brings the wealth of knowledge to the board, so it's my appointment to welcome Kevin to the Village Board and please come up and be sworn in.

KEVIN CONERO RESIGNATION FROM PLANNING BOARD

Kevin Conero verbally, with written resignation to follow, resigned from the Planning Board effective November 21, 2023.

Moved by Deputy Mayor Andolsek, seconded by Trustee Hembury, the Board accepted the resignation of Kevin Conero from the Planning Board. Motion carried 4-Ayes, 1-Abstain (Trustee Picarello).

REQUEST TO MEET WITH THE BOARD

James Martinez of Engineering Properties, representing Butler Construction Group's project on Dunn Road. We're here to get approval from the Village Board of Trustees to build to Montgomery code Section 122-52G which says any industrial or commercial uses having more than 4,000 square feet gross floor area must seek your approval. The property was annexed from the Town into the Village for this project. It's approximately an 11-acre lot, 21,359 square feet. The storage yard will be fenced. The building and property will have adequate landscape screening. The project will have a private well and septic. All the outstanding

comments have been addressed and we were granted conditional preliminary site plan approval from the Planning Board and we're seeking your approval to get final approval from the Planning Board.

Trustee Conero - We spent a lot of time on this project, mayor, and we looked at all the aspects of this project and worked with the historic architect Elise Johnson-Smith who looked at that, looked at the landscaping plans. She made some recommendations and changes to the property and the site. We feel that this is a great improvement for the Village of Montgomery. They plan on moving the existing construction company off of 416 and 211; they're going to move it back onto this piece of property. The Planning Board spent a considerable amount of time with the applicant on this. Like James had just said, there is no water or sewer hookups on this property because we don't have anything running down Dunn, so they're self-sufficient on that. There's proper screening along all the boundaries of this property, especially the north and the West side. So, if you could show a picture of what the building's going to look like. The architect recommended they use earth tone colors so that's what we went with. The Board voted positively for this. You know in the code, as James mentioned, that it needs to come to the Village Board for final approval because it's over 4,000 square feet. Attorney McKay has a document already ready to go, called the Village Board Resolution Approval. The Planning Board forwarded it to the Village Board for final approval.

Trustee Picarello - Are all the necessary notations and special agreements clearly and unarguably noted on the site plan, such as sidewalks, curbing, special materials, specific plantings or signage not typically required or requested and agreed upon because I know that that's been an issue. I know Kevin worked hard on making sure that is tight and I want to double check on record that we're good to go there.

James Martinez - I believe so.

Trustee Conero - Everything required by the attorney and the engineer from Lanc & Tully have certified the plans and the legal document, the resolution.

Trustee Picarello - And they're not specific to this project approval at all, I'm interested in creating formal language on the permit applications going forward, specifically, spelling out what and how much land disturbance and site work can be done. I know that's loosely outlined on there already but prior to approval and the percentage of the fee payment or additional fee required, clearly layout the enforcement expectations thereof because I know that there were some issues with this project that people brought up throughout about what was being done and not done prior to. Nothing against the project, just going forward can we do it better.

Trustee Conero - There was some site work done prior to the Planning Board approval but that was okayed by the building inspector, I believe, and also with the attorney, so I think they were okay. I mean, I agree with you they should not have done that prior to approval.

Trustee Picarello - It's not specific or personal but just going forward let's make sure it's all laid out.

Mayor Brescia - I'm glad to see the architectural renderings done properly. That was my main concern, the aesthetics and the Board did want this project to move forward because they wanted the unsightliness of the project property on 211 cleaned up. This Expeditionary impossible and that's going to be a B2 zone now which hopefully will be a nice gateway in the Village. I spoke to Mr. Butler a long time ago and just said that my concerns were he would make the building look nice and keep the area clean around there.

Moved by Trustee Picarello, seconded by Deputy Mayor Andolsek, the Board gave Final Approval to Butler Construction Group on Dunn Road, SBL 213-3-5. Motion carried 5-Ayes, 0-Nays.

APPROVE ABSTRACT – No. 10 – 2023

Moved by Trustee Picarello, seconded by Trustee Hembury, the Board approved Abstract – No. 10 – 2023. Motion carried 5-Ayes, 0-Nays.

OLD BUSINESS

ADOPTION OF LOCAL LAW 4 OF 2023

Atty. Frank – Local Law regarding Outdoor Dining and the Procedures Established going through the building department for any existing restaurant that wants to have outdoor dining in addition to their approved site plan. There is a process that's going to be moving forward to get an application from the building department, give a layout of what your outdoor layout is going to look like. Trustee Picarello and I started working on the paperwork for that. We have samples from other places and mold them to what our law looks like and how we want the application to look.

Trustee Picarello – It's about 70% there.

Atty. Frank – We will have this in place after the New Year when people want to start eating outside. There are concerns of what the utilization of sidewalk space is going to look like, to make sure there is no blocking of pedestrian access, which is important to the Board. Also, the insurance requirements are met by restaurant owners and the provisions for taking in tables and chairs at the end of the business day so there is no blocking whatsoever of the sidewalks. That's all covered in the law, this was talked about at the public hearing. The Board and the public had some input, they made some changes based on that and then had the final public hearing after those changes. The only step they didn't take after the public hearing was closed was adopt the local law. So, they need to do that so they can finalize the application, print out applications and the paperwork and get that going for businesses starting next year.

Moved by Trustee Picarello, seconded by Trustee Hembury, the Board Adopted Introductory Local Law 4 of 2023, "Creating Chapter 79 of the Village Code Entitled Outdoor Dining, Seasonal," in the Village of Montgomery. Motion carried 5-Ayes, 0-Nays.

Trustee Hembury – First, congratulations to Steve on the Town Supervisor.

Next, I think that this Village should pass a rule right away that no other flag other than the American flag and the POW flag and State flag should be flown on Village owned property.

Moved by Trustee Hembury, seconded by Trustee Conero, the Board adopted a resolution that on municipal property, the only flags to be flown are the American, State of NY and POW. Motion carried 4-Ayes, 0-Nays, 1-No Vote (Trustee Picarello).

He and Darlene welcomed 8 new residents on November 1st. His family and Darlene handed out flags at Veterans Corner on Veterans Day. The Girl Scouts, including his granddaughter, made cards for the Veterans for their luncheon. He again praised Bill from DPW for putting up a light on the Veteran's corner street sign.

Lolly's Airport Inn is having a buffet from 2 to 9. Bring your toy December 3rd. George and Maria Charles are doing this for Toys for Tots. The Toys for Trot Race is going on, bring an unwrapped toy. This can all be found on the Village website it's beautifully designed by Stacy Brescia-Spreer. The third thing, the Toys for Tots Train will be coming on the 10th and so on the 10th, Sunday from 12:45 to 1:55, please bring the toy down.

The residents on Weaver Street are requesting speed bumps. Carol Monroe brought a petition with 33 signatures requesting temporary speed humps. Trustee Hembury researched pricing and would like to have purchased and installed.

Moved by Deputy Mayor Andolsek, seconded by Trustee Hembury, the Board approved up to \$2,000 for temporary speed humps and hardware, to be purchased to use on Weaver Street. Motion carried 4 Ayes, 0-Nays, 1-No Vote (Trustee Picarello).

Trustee Picarello's report is online and Facebook; Her and Tina have copies if anyone requests one.

CHANGE THE BOARD OF TRUSTEES REGULAR MEETING DATE FROM DECEMBER 5, 2023, TO DECEMBER 6, 2023

Moved by Deputy Mayor Andolsek, seconded by Trustee Picarello, the Board approved changing the Board of Trustees regular meeting date from December 5, 2023, to December 6, 2023. Motion carried 5-Ayes, 0-Nays.

CONSIDER ADOPTING INTRODUCTORY LOCAL LAW 5 OF 2023 "ESTABLISHING A THREE-MONTH MORATORIUM OF REVIEWS AND APPROVALS APPLICATIONS OF CERTAIN LAND DEVELOPMENT"

Atty. Frank - you can discuss this evening, other than 6-months, there was discussion during the public hearing, does the Board want to allow applications to proceed but not be eligible for approvals. That needs to be discussed. If the Board wants to do that, he needs to make appropriate changes to it.

Trustee Picarello – What type of litigation, if any, does that leave us open to if we are accepting applications, which I understand is reasonable and preferred, than to just put a halt. Who sets the criteria to protect us from litigation from being accused of only moving certain projects forward and not, you know I'm saying?

Atty. Frank - First of all, anybody can sue the Village for anything. Whether they're going to be successful or not is another matter. What I'm saying is, there was some discussion from the mayor and others that you can continue to review applications, you can accept any application you want, but none of the boards of the village could give any conditional or final approvals. they can let them go through the process at their own risk and they may or may not get an approval based on the water situation. Their approval is not going to be forthcoming until the water moratorium is lifted. So, if the Board wants to go that route there's nothing wrong with that, it'll be made very clear everyone's proceeding at their own risk. They still can't get a building permit, wouldn't be able to get a CO, wouldn't be able to get in a conditional approval even from the Planning Board or from the ZBA they're going for any kind of variance or when anyone has to come back.

Sophia Romano - If we have a public hearing and close the public hearing we have to make a decision on the applicant so after we close the public meeting, we have 42 days and if there is moratorium do we get penalized for that?

Atty. Frank - If there's a moratorium in place, the moratorium supersedes.

Trustee Conero - I think, too, there are provisions in there for people that want to apply for a hardship. I also think that you might want to consider continuing the processing of the applications that are already in front of the Planning Board and maybe not take on any new ones because I think it would be unfair to the

applicants to find out that you know we go through the planning process, and they can't get the water. That's certainly the consideration, but as John Cappello had mentioned too, and I know he's an attorney, but he mentioned that you know it takes considerable long time, so if the applicant wants to do that, like Will said, and just let them go through the process and be ready when it's ready.

Trustee Picarello - And be ready. As long as we aren't able to be accused of cherry picking or doing any of that...and that criteria, that standards are put in there.

Trustee Conero - I would like to see it allowed to proceed with the review process.

Mayor Brescia - I would too I mean it's I think we're opening ourselves up to...even though I think we're more likely to opening ourselves up more to litigation if we don't allow the process to proceed for review for existing applications. We had a one-year moratorium on construction here not too long ago and now we're enacting a six-month moratorium, which more than likely will be extended. So, that's my position on that.

Atty. Frank – So, just so I'm clear on what changes you want me to make for the review of any applications, continued review of any applications that are currently in the pipeline, but no new submissions. Is that what you're suggesting? I just need to know what to write.

Trustee Conero – No, I think you should just process the applications and let the applicant know that it's a possibility that you could go through this process and not issue any kind of preliminary or final approval.

Atty. Frank – So, accept applications, even new ones.

Trustee Hembury – It's similar to living in the historic district, they know ahead of time that they move into a historic district and there are rules they have to go by.

Mayor Brescia – They are going through the process, but they know they're taking a risk of not getting their building permits or their final approvals unless the moratorium is lifted, so they know that going in but at least it doesn't preclude them from applying and going through the process.

Atty. Frank - I don't know if it can be adopted tonight, I need to redo some of this language. I need to recirculate this to the Board, and we'll put it on the website. We don't need to have another public hearing.

Mayor Brescia – It will be ready for adoption on December 6th.

I hope to have Bob Miller, the hydrogeologist, give a brief report. We had him look at the Devitt property wells, and we'll try to get him at the next meeting to give a report. but he feels it is definitely advantageous for us to pursue those three wells on that property. The Devitt's have sunk \$150,000 into developing those wells and he feels it's advantageous and he can explain that. He did send us an e-mail. I'm going to recommend before I leave the Board that we definitely pursue taking over those wells, but there needs to be more study right on it; two other hydrogeologists also saw the advantage to pursuing those wells. He is also going to have Lanc & Tully look at the potential well site over at Loosestrife Fields to balance the system.

Chief Herlihy – I just wanted to remind everyone that we wound up arresting the person that was causing all the damage to the roads in the Village, so that was that was done. Within a week of the Airport Inn burglary, we have the suspect in custody so that one's taken care of, Unfortunately, there's two that we're still working on right now where we have the smashing of the windows on Walkkill by the school that we're still working on, and then we have the sneaker shed incident we're still working on. Unfortunately, we're exhausting leads on that, and we'll keep going. In regard to the Airport Inn, we took everything that we had

over the past year and a half of incidents, we put it all together and we presented it to the DA's office, and they said that we had enough to go ahead with the charge, so we went and did so.

I was talking with you mayor, about the incident up at the schools, the Montessori and the Nursery School. I was conversing with Will, and we found this section of law; so, with the Board's permission or actually Board resolution or creation of a law under 114-47, you can give me the power to create an emergency no parking zone during the bus times for pick up and drop off for both the Montessori & Nursery schools. And that'll give me up until the time that you and the Board to enact a local law to come up...

Mayor Brescia - It is a mess there. So, we'll give you emergency..., and you'll communicate with the Nursery School, the Montessori school and the bus company?

Chief Herlihy - Yes, we'll set up the emergency no parking zone; we'll put it out with all the cones and the signage that we need. I just need the Board's approval...

Mayor Brescia - I would ask that you meet with those individuals, the bus company and the schools before you do it or soon thereafter, that's my only request. The Chief and I had a discussion a week and a half ago about this and it is a dire situation. I mean, it's really tough to get through there with the nursery school. I go through in creeper gear there. You need a simple resolution?

Atty. Frank - A simple resolution pursuant to Village Code section 114-47, "Authorizing the Chief of Police to create no parking zones on an emergency basis pending adoption of formal regulations by local law by the Village.

Moved by Deputy Mayor Andolsek, seconded by Trustee Hembury, the Board approved a resolution pursuant to Village Code, Section 114-47 "Authorizing the Chief of Police to create no parking zones on an emergency basis pending adoption of formal regulation by local law by the Village. Motion carried 5-Ayes, 0-Nays.

APPROVE REQUEST BY AMERICAN RED CROSS TO USE THE SENIOR CENTER

Moved by Trustee Picarello, seconded by Trustee Hembury, the Board allowed the American Red Cross to use the Senior Center for a blood drive on Thursday, December 21, 2023, at no cost conditioned upon the proper certificate of insurance, naming the Village as additional insured. Motion carried 5-Ayes, 0-Nays.

ACCEPT THE RESIGNATION OF POLICE OFFICER ANDREW BELLOTTO

Moved by Trustee Picarello, seconded by Trustee Hembury, the Board accepted the resignation of Police Officer Andrew Bellotto effective October 13, 2023. Motion carried 5-Ayes. 0-Nays.

ACCEPT THE RESIGNATION OF POLICE OFFICER ROBERT B CINTRON

Moved by Trustee Picarello, seconded by Trustee Hembury, the Board accepted the resignation of Police Officer Robert B Cintron effective October 18, 2023. Motion carried 5-Ayes, 0-Nays.

ACCEPT THE RESIGNATION OF POLICE OFFICER DENNIS MATTHEWS

Moved by Trustee Picarello, seconded by Trustee Hembury, the Board accepted the resignation of Police Officer Dennis Matthews effective October 23, 2023. Motion carried 5-Ayes, 0-Nays.

SURPLUS UNUSED CHAIR LIFT

Moved by Trustee Picarello, seconded by Deputy Mayor Andolsek, the Board approved surplusung the unused chair lift. Motion carried 5-Ayes, 0-Nays.

RECORDS RETENTION

Trustee Picarello – For this meeting, 24 boxes ready to be destroyed, but in total, 62 boxes, all outdated and not needing to be archived, ready to be destroyed. She has confirmed with the Comptroller and NYCOM to make sure the schedule she is creating is compliant. She also has created an index to implement.

Trustee Conero – The boxes to be destroyed, certified by the Comptroller...

Trustee Picarello – There is no Comptroller. We adopted the LGS-1, which is the state's schedule for record retention, in 2021. After that, there was supposed to be a full office schedule created with the department heads according to their retention schedule. We should be making time to go through it periodically. It hasn't been gone through since (inaudible).

Trustee Conero – So these are over 7 years old?

Trustee Picarello – Over 20 years old. It's detailed and categorized.

Mayor Brescia – Suggests another Trustee to doublecheck what is being destroyed.

Moved by Deputy Mayor Andolsek, seconded by Trustee Hembury, the Board approved Trustee Picarello destroying the old files contingent upon another Trustee looking over what is being destroyed. Motion carried 5-Ayes, 0-Nays.

Mayor Brescia – I have a file cabinet with old minutes that have been stored for me that I would like to keep. They are basically old minutes; I don't want to be accused of stealing anything. It's probably some site plans, etc.

EVENTS

Pearl Harbor Remembrance is on Thursday, December 7th at 10:00am at the Pleasure Grounds Landing.

Old-Fashioned Christmas will be Saturday, December 9th from 11:00am - 5:15pm.

Operation Toy Train, Toys for Tots will be Sunday, December 10th from 12:45pm - 1:55pm at the Railroad Avenue location.

The Annual House Decorating judging will take place on Sunday, December 10th from 6:00pm - 09:00pm.

The Pine Bush Community Band Holiday Concert will be on Sunday, December 17th from 3:00pm – 5:00pm.

PUBLIC PORTION

Alan Baty – Just one thing in your hydrogeologist's letter. I don't dispute further investigation into the Devitt wells. If you noticed, if you read the letter, your hydrogeologist said not all of the information was forwarded to him. One of the wells couldn't be considered because the information wasn't included. Moving forward, I do agree with his steps moving forward; further investigation, bringing the Department of Health and the DEC on board so the numbers can be certified and see what happens.

Mayor Brescia - There's a lot of options there, Buddy isn't too crazy about pursuing wells on the KSH property because we have quite a few wells in that general area. There are plenty of options and the water situation isn't quite as dire as some people think. I mean we're poised to put a new well online that's imminent and that's going to help our water situation tremendously.

Alan Baty - Just one aspect on the Holt wells, his biggest problem down there is the screen snap plug-up. You've got to go back in and refreeze the hold, reopen the fishers and stuff like that. He can't do it any other way, like do a couple wells at a time because you can't afford to take one offline. That's going to be an issue down the road. There will come a point where you are able to refreeze and reopen those fissures and that they will get to a point where they clog. And I speak from experience. I've had 32 wells under my belt. I worked for West Point so I'm very well aware of what happens.

Mayor Brescia - We've done the hydro-fracking and Buddy's on top of that.

Alan Baty – I'm not disputing that. You're going to need another water source.

Mayor Brescia – If it was a simple, you know, whether that's when one of the other wells is offline you can pull out; one and three are the better of those two wells, from the way I understand. But we'll have a fuller report, hopefully at the next meeting, from Bob Miller, but at least we know three hydrogeologists looked at those wells and their great potential for us. That's probably the lowest hanging fruit at this point but we have other options, too. Like I said, if we do anything with the annexation or not you know they should hand us over a well that's ready to go that we don't have to spend much money.

Don Berger – On October 17th during public comment, I brought up the topic of your exit plan and what the plan is. We haven't heard anything. I was hoping that you would have that at this meeting. I had requested at that October 17th meeting that you would have it at this meeting, but it was nice to hear tonight that you said that Kevin will have an election in March, and you made a comment about yourself, “I won't be the Village Board on January 1st,” so I take it that you're going to be resigning.

Mayor Brescia - Well I should correct that it probably will be around January 10th. I'll take a few days; don't hold me to that exact date.

Don Berger - So what I'd like to do, I want to hand this out to everybody. This is from the New York State attorney general's office. When you just do a search on their the website it comes up with this stuff and I think you should read it. You could just read the highlighted sections of it. There are two opinions and basically, I've had numerous conversations with the New York State Board of Elections, including one I had today. I've had numerous conversations with the attorney general's office, and I've also been in contact with the inspector general's office on this issue and they all say, what you see in the highlighted area, that it is the law. What I'm hoping, Steve, is that you've been here for over 30 years. You've done a great job with this Village; your County Legislator, just almost the same number of years. You're great at that job, you're moving on to the Town and I've congratulated there a couple of times already for winning that election. I just feel that when you move to the seat of the Town Supervisor, everything that you've done for this Village, for this County, moving forward what you're going to do for this Town, you should take it with great pride but don't let this little thing of when you want to resign, because the reason for that is you don't want to have the mayors position come up for election. I really don't believe that you or the Board should determine that. I think the residents should determine who the next mayor is. I'm sure there's people out there that might be anxious to run. I think you should be able to give them the opportunity to run. The problem with it if you don't make these decisions, Steve, is this is that the clerk is going to be backed against the wall and because she has dates that she has to follow up on, just noting the election, moving forward, petitions, the dates for all that stuff that is required for an election. If you're going to do that evidently with Kevin and perhaps, I'm going to assume the second trustee when you appoint your replacement, or the Board appoints a replacement so that would leave two vacancies. Will that one also come up for election?

Mayor Brescia - If I resign after January 4th, I believe there won't be a special election this year. The four remaining members of this Board will appoint my replacement. They could do it right away or they could

do it after the reorganization meeting in April, and that person would serve as mayor for one year then there would be an election the next year for two years for the remainder of my term.

Don Berger – So, if you did it that way you would have to have a follow up election in 2025 for one year.

Mayor Brescia - You're just handing this to me now. I will take it under consideration.

Don Berger – I did e-mail all of you guys a copy of the law from the Board of Elections. I have a copy of it here. This right here, Village Law 3-312. Did you all read that when I sent it?

Mayor Brescia – I didn't see the e-mail, Don.

Don Berger - I sent that out to you guys on October 18th.

Mayor Brescia - I don't recall that.

Don Berger – Will, as the attorney for the Village and the Town, legally, what are we to do? Have you consulted with the Board as to what their options are in something like this? Have you considered that, “Hey, let's have an election here, that's what the people want.” They want an election. That's what America, the United States Constitution is all about.

Atty. Frank - You don't have to tell me what's in the constitution, with all due respect. I think that's a little bit patronizing and yes, I'm aware of the constitution. Thank you. But to answer your question, I have consulted with Board members in the Town, I've consulted with Trustees here and those discussions will continue. It's not my choice. The choices that are made will be made and they will be made legally. That's all I can tell you.

Don Berger - I could read what's highlighted. It says,” The same person may not hold simultaneously the two public offices of a member of a Village Board of Trustees and a member of a Town Board of the Town in which the Village lies.” What that's saying is that the Village of Montgomery is within the Town so you can't hold two offices. If it was the Village Cornwall, you could do that but not within the Town structure. Then, it also comes out under, if you read the second opinion, the incompatible law; that the two offices are not compatible to work with each other. In other words, when you're the Town Supervisor, you have taxes and all that stuff that B funds are all about and it's problematic Steve. I think the honorable thing to do, Steve, is to resign and put out a special election for perhaps the mayor and whether it be two trustees or what, and just get it done with. Let the people speak.

Mayor Brescia - Well I'll certainly consider that. You know I've spoken in NYCOM numerous times, and I really don't have to resign until the Village budgetary process commences so you know I'll look at this review and I'll make my decision probably, you know, the next meeting or the following. Thank you and Don, I don't think I'm going to do an exit plan. I'm not a Premier of Russia, I'm not a president of the United States. I'll make statements at a Board meeting. I get along with everybody on this Village Board, we have a good relationship. We argue, right Mike, once in a while but we both have, we all have the Village at heart, everybody up here. And I can either be the good angel on the shoulder talking to the Village Board or the devil over here, it depends on how you construe that. You want an exit plan. I'm going to make statements as I go along the way. The last newsletter, which might be the last newsletter. Maybe the Village Board may want to go to e-mail newsletters, I think it's worked well in the past and I've tried not to be political in that newsletter, but I'm going to make some statements in there and I think I'm leaving the Village in good hands. We have a great Board here, great Planning Board, ZBA, volunteer committees, great communities, great Police Department, awesome public works department. You know I'm going to be available as supervisor for counsel. I get back to you even when you text me; I didn't used to, but I do

now. I'm still going to be available because you know I might not be the most organized guy in the world, but I know how to move the needle and I've done that whether it's a construction project like this senior center or infrastructure in the village. And I've said this before, we've done more infrastructure improvements in the Village of Montgomery in the last 30 years that had been done in the previous 75. I know a lot of people. I know how to network. Sometimes I can be a little negative. I will probably make some kind of exit statement but I'm not going to draft up an exit plan. I'm just not going to do that, so you can ask me questions and I'll be willing to answer but I will be, I know I'm going to get calls from Village Trustees and others about who do I call for this, or who do I call...and I don't pretend that I know everything because I certainly don't. I think it's going to be an easy transition and the only question is whether there's going to be an election in March or in 2025. If I wait until January 4th or 5th or whatever and I resign, there won't be a special election in 24 and I'd rather see there not be a special election 24, because in my opinion, and I'm probably the longest tenured mayor in the state of New York now if not I'm probably in the top three. Because the 45-year tenure mayor of Lake George didn't run last year, I think I'm probably right up there. You see the gray hairs coming as a result. I think it would be easier. I know of Trustee Picarello and others who are interested in running for mayor. I think one more year under the belt for her, with a relationship with the Board, and the good work that she's doing, would help. So, I'll take that under consideration when I resign, whether it's January 1st or January 10th or whatever, that's all I can tell you at this point.

Don Berger - When I started speaking here, I said to Steve that in the 31 years whatever the years are, you've done a great job. I said you did a great job as a legislator. You did a great job. All I'm asking for, what I meant by an exit plan, was how you fill in the seats.

Mayor Brescia - When I go, this Board will make that decision. Whether Deputy Mayor Andolsek serves in the mayoral capacity as Deputy Mayor, not as mayor, but serves the duties of mayor for the next for January, February and March and then the Board could appoint somebody as mayor for a year. It could go that route or go the other way. So, you know I'll consider reviewing this. I will.

Alan Baty - When are you resigning from the County?

Mayor Brescia - That'll be December 31st at midnight or January 1st.

Alan Baty - What's the difference?

Mayor Brescia - What's the difference? What I just said a minute ago about the transition. I think it would be easier...

Alan Baty - It's the public's right to have a free election. If you resign from the County on the 31st, you should resign from the Village on the 31st, and I would almost bet your Board attorney is on that page. I just think you want to leave this place with a clean slate, with people thinking highly of you. If that's your option you do otherwise, I'm sorry.

Mary Lippincott - Mike, I would like to tell you those lights above the flags are very impressive. When you're driving on a dark night and see those lights, the holes that have flags on them.

Trustee Hembury - I've got to give credit first, to the Board for voting it and for Billy Corrigan putting it up and Sue.

Mary Lippincott - The other thing is, the speed bumps. When you're finished with them on Weaver Street, could you put them on Boyd Street from the railroad tracks to the first stop sign going up Goodwill, because they use that as a race track every night.

Trustee Hembury - I think that would cost \$1000 more. (laughter)

Karina Tipton - Just a couple of things. First, you may have noticed that I have a cast on my foot, and it has made me super aware of the fact that the second floor of the Village Hall does not appear to be handicapped accessible. And also, there's not even a handicap button on this door (at the Senior Center) so you can't even get in. If I was in a full wheelchair, I would not be able to access this building either, and what I wanted to ask the Village Trustees, is to consider a requirement that meetings are held in the accessible portions of Village owned properties. I've been thinking to myself, what would happen if I had to go to court? I don't know what would happen.

Mayor Brescia - Usually the judge comes down. It's been the past practice that the judge comes downstairs.

Karina Tipton - I can only imagine how stressful that must be for somebody who's already accountable and a court situation and it doesn't really feel like equal service or equal accessibility under the law, so I appreciate that the judge is able to accommodate the person in that situation, but it also precludes us from having a handicap judge. I just would like to suggest that this is something that the Trustees consider. I mean, I appreciate having the meeting at this location. I appreciate that the Planning Board meetings are on the ground floor at Village Hall. I think there's just something to priority on this building.

Mayor Brescia – The new (senior center) building will have it. Another lift may have to be considered for the stairs.

Karina Tipton – The second thing concerns your resignation. What is the benefit to the people of the Village and the Town if you push out your resignation and avoid a special election. I would like you to reconsider that because it sounds like the benefit would be to whoever the Board intends to appoint and not the electorate that you all serve.

Walt Pahucki – As a democratic process we look at our federal process is not that great, our votes don't matter, but here, they actually do, we're seeing it as well as saying it. Let the Village have the say in March. It is nothing against the Board.

Trustee Picarello – Will, can you clarify what the incompatibilities are and what that means? Is there a timeline on it? If Steve takes the oath of office for the Town Supervisor on the 1st or does he not have to take the oath, how does that work? It says it's incompatible and he can't simultaneously hold them; what are the legalities of that and what does that mean for the Village?

Atty. Frank – The issue is, cannot hold both offices simultaneously. That's the bottom line. The positions are incompatible, and you can't hold both at the same time.

Trustee Picarello would like to have more open discussions with the Board in regard to the transition.

ADJOURNMENT

Moved by Deputy Mayor Andolsek, seconded by Trustee Conero, the Board adjourned the regular meeting of the Board of Trustees at 9:29pm. Motion carried 5-Ayes, 0-Nays.