

Minutes of the Regular Meeting of the Board of Trustees of the Village of Montgomery held in the Meeting Room at 133 Clinton Street, Montgomery, NY 12549 on Tuesday, **July 1, 2008** at 7:30 P.M.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Cantiello, Trustee Kiernan; Atty. Dowd; O-I-C.Luffman; DPW Supt. Nelson; Vlg.Historian Wild; Johanna Sweikata; Jason Doce; Ed Devit; Devitt Management & Assoc.-Marc Devitt, Atty. Catalano, Eng. Bossiline; Michael Buonoato; Dan Byam; William Freeman; Wallkill Valley Times reporter.

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

**RE: MINUTES**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board approved the minutes of June 3, 2008. The motion carried by a 5-AYE, 0-NAY vote.

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board approved the minutes of the Special Meeting held on June 9, 2008 with Deputy Mayor Scheels, Trustee Andolsek, Trustee Cantiello, Trustee Kiernan voting AYE, and Mayor Brescia abstained (not present). The motion carried.

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board approved the minutes of June 17, 2008. The motion carried by a 5-AYE, 0-NAY vote.

**RE: ABSTRACT NO. 7-2008**

Moved by Trustee Cantiello, seconded by Trustee Kiernan, all bills listed on ABSTRACT No. 6-2008 were audited and approved for payment contingent upon review by Trustee Kiernan with \$231,863.19 from the General Fund, \$12,162.13 from the Water Fund, \$24,829.52 from the Sewer Fund and totaling \$268,854.74. Check Nos: 37023-37039; 38117-38220. The motion carried by a 5-AYE, 0-NAY vote.

Treasurer Benedict reported a CASH BALANCE for the month ending June 30, 2008 as follows: General Fund \$1,648,930.62, Water Fund \$180,768.89 Sewer Fund \$355,485.53.

**RE: 10 FACTORY STREET**

Elizabeth Mansfield (Commercial Real Estate) discussed possible business uses for 10 Factory Street. The zoning does not fit with the type business that is interested in locating at 10 Factory Street. Scot Ryvack with ADF Design was introduced to the Board. They are currently based in the Town of Wallkill, 26 Scotchtown/Collarbar Road., near the Rte.17K side of Goshen Turnpike.

Scott Ryvack advised they are a company owned by a larger corporation in New York City. ADF Design specializes in commercial work. The present facility is a little small and that is why they are looking at 10 Factory Street. The building is what they are looking for and It will allow them to maintain the current workforce.

Mayor Brescia asked about the truck traffic, noise and air quality. Scott Ryvack responded saying there would be about one or two trucks going out a day with one or two deliveries a day. They presently have two DEC approved spray booths and would need the same for the building at Factory Street which presently has one. The noise would be minimal. There is an air-makeup unit that is required for the spraying facility that would be located on the roof. That is not that noisy.

Trustee Cantiello inquired about the hours of operations and the number of people employed. Scott Ryvack said 5:30-6:00 a.m. would be the earliest and 5:00 p.m. the latest. Occasionally, late summer, early fall, the busy season, probably the latest seven o'clock at night. Saturdays are only half days. Right now there are about 27 people employed in the facility and we hope of bringing that number up close to 40 and employ local people. It is a union shop that pays between \$10 and \$25, depending on qualifications.

Trustee Kiernan asked about emissions. Scott Ryvack they are extremely very environmentally conscious. DEC gives us permits and visits our facilities.

Elizabeth Mansfield asked the Board if this is something they would consider for a B-2 zone? They have chosen this building, but if this business is something the Board does not want to see in the Village then they will look elsewhere. We have been discussing it with Atty. Dowd. Atty. Dowd advised in a B-2 zone a shop for custom work is permitted and for making articles to be sold at retail on premises. Scott Ryvack said they would not be selling on premises. The Board was invited to look at the present operations and Elizabeth Mansfield said she would coordinate that with board members for the owner. ADF Design is pro business and they would like to bring some jobs into the Village.

Mayor Brescia and the Board said they will try to tour their facility within the next week or two and then revisit it at the next meeting.

## **RE: 250 GOODWILL ROAD – SEWER CONNECTION**

Michael Buononato, 250 Goodwill Road, recently became aware his house was not hooked into the sewer system. Upon an investigation, it was determined he had a septic tank, active leech fields, distribution boxes and a gravity septic line to the street but not active with two cleanouts. Because of these circumstances, he is requesting a refund of sewer fees dating back to June 1998 when he purchased the house. It is his intention to hook into the sewer system as soon as possible.

Mayor Brescia and the Board read his letter and asked Atty. Dowd if he had a chance to review it. Atty. Dowd advised he has spoken to DPW Supt. Nelson about this matter. He should have been hooked up to sewer system, but since he did not know or the Village, the Board could consider giving him relief but not more than six years. There are opinions of the State Comptroller that say you can not go back further than six years. There is a minimum sewer charge if a house is not hooked into the sewer system that is paid semi-annually. Mayor Brescia advised there were very few homes that were not hooked in, but now are. The area where Mr. Buononato lives was annexed into the Village. Mr. Buononato would have done the right thing If he had known.

Mayor Brescia advised he would like to discuss it further in executive session to see legally where the Village stands. The Board agreed and said Mr. Buononato would be notified of the Board's decision.

**RE: DEVITT MANAGEMENT PROJECT- (213-1-1)  
CHANDLER LANE/RT. 211**

Mayor Brescia turned the meeting over to Deputy Mayor Scheels. Deputy Mayor Scheels advised she and Trustee Andolsek met with the applicant and Atty. Catalano and Trustees Cantiello and Kiernan, respectively, to go over the finding statement which completes the SEQRA process. The findings statement was changed to eliminate all the apartment buildings in the PDD. There will be only condominiums, 2-bedroom, owner occupied. The Village will receive the wells on the PDD site which will add about 50 per cent to our water supply. The recreation fees will be required. All mitigations in the SEQRA document will be implemented. Therefore, if the Board is satisfied with the PDD proposal and feels it is in the best interest of the Village and it adequately protects the Village and the residents, a motion can be made to proceed to the next step.

Trustee Kiernan asked if the 3-bedroom with three people occupancy is in the findings statement? Deputy Mayor Scheels said we did cover that in Schedule A of the Resolution. Atty. Dowd asked if the local law had been changed any way? Deputy Mayor Scheels responded saying 'no'. Atty. Catalano said it is the same as what was sent to the Board on June 3<sup>rd</sup> and again on the night of the public hearing held June 23<sup>rd</sup>. Atty. Dowd said it was his thought the local law was going to rezone this to a PDD that was going to have specific regulations. Atty. Catalano said the PDD just changes the zoning map with a PDD designation and subject to the terms and conditions placed on it by the Board by resolution.

Atty. Dowd said he and Vlg. Eng. O'Rourke did not have an opportunity to go over the final documents. Although it is the Board's option to proceed without their review, he said the Board should be thoroughly aware of what is in the final document. Deputy Mayor Scheels said there was a meeting set with the applicant's consultants but the meeting was cancelled because Atty. Dowd could not make the meeting. Atty. Catalano explained how a PDD works. The action of rezoning will change the zoning map to a PDD designation and that the terms, requirements and conditions that the Board went over with us is going to be part of the conditions that run with the property and would be your zoning regulations which will also include the Planning Board terms and conditions they place on the site plan. It really is not going to be able to be developed pursuant to a PDD classification until the site plan is finally approved. The Schedule A provides for the parameters and the restrictions that the Planning Board will have to follow in conducting a site plan review. Deputy Mayor Scheels agreed Schedule A is what they have gone over and wanted to see in the zoning. Atty. Catalano added it will include specifically all the conditions and mitigation in the SEQRA documents and be complied with the condition of the site plan.

Trustee Kiernan said he is prepared to take action. Deputy Mayor Scheels said she believes the project's findings statements and SEQRA were adequate to proceed with the next step and called for a vote.

**RE: LOCAL LAW NO. 1 of 2008 – “APPROVAL OF CHANDLER LANE PLANNED DEVELOPMENT DISTRICT PROPOSAL”**

Moved by Trustee Kiernan, seconded by Trustee Cantiello, the Board declared Lead Agency and adopted a Resolution of Negative Declaration (ATTACHED) declaring the adoption of proposed Local Law No. 1-1 of 2008 entitled “APPROVAL OF CHANDLER LAND PLANNED DEVELOPMENT DISTRICT PROPOSAL” will not have any adverse environmental impact with Deputy Mayor Scheels, Trustee Andolsek, Trustee Cantiello, Trustee Kiernan voting AYE and Mayor Brescia abstained. The motion carried.

Moved by Trustee Cantiello, seconded by Trustee Kiernan, the Board adopted Local Law No. 1 of 2008 entitled “APPROVAL OF CHANDLER LAND PLANNED DEVELOPMENT DISTRICT PROPOSAL” rezoning from Industrial Park (I-1) to Planned Development District to allow mixed-use development consisting of condominiums, apartments and commercial/office space (ATTACHED) with Deputy Mayor Scheels, Trustee Andolsek, Trustee Cantiello, Trustee Kiernan voting AYE and Mayor Brescia abstained. The motion carried.

**RE: TIME WARNER CABLE FRANCHISE**

Atty. Dowd reported Time Warner Cable has not responded to the letter asking for a meeting. There was an article in the newspaper about Verizon in the area. They are just starting to wire the area. The franchise has always been non-exclusive, meaning if anyone else wanted to wire the area they could come in and submit a proposal. In the mean time, Time Warner Cable will be contacted to get them to the table to negotiate.

Dan Byam stated he was speaking with someone from Verizon who seemed interested. Mayor Brescia suggested getting a franchise proposal from Verizon as well. Maybe he can speak with Trustee Cantiello who is the Board’s liaison for cablevision franchises. It may be worthwhile to look into.

**RE: RENTAL SENIOR CENTER**

Moved by Trustee Kiernan, seconded by Trustee Cantiello, the Board approved Brian Weinrich’s request to rent the senior center on February 28, 2009 for his daughter’s birthday party subject to use of the facility audio equipment only by a certified individual with knowledge of the system. The motion carried by a 5-AYE, 0-NAY vote.

The Board discussed employee rates for rental of the senior center and was in agreement rentals will be what is in effect.

**RE: SPECIAL MEETING**

Moved by Deputy Mayor Scheels, seconded by Trustee Cantiello, the Board set a Special Meeting on August 1, 2008 at 10:00 A.M. for the purpose of auditing bills for the month of August and other matters needing attention. The motion carried by a 5-AYE, 0-NAY vote.

**RE: COURT RECORDS – ANNUAL EXAMINATION**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Village Board acknowledged the Annual Audit Checklist for the Village Justice Court Records completed on June 23, 2008 by Deputy Mayor Scheels. The motion carried by a 5-AYE, 0-NAY vote.

**RE: POLICE DEPARTMENT**

Moved by Trustee Andolsek, seconded by Trustee Cantiello, the Board approved AED, First Aid and CPR Training for police officers for approximately \$600. The motion carried by a 5-AYE, 0-NAY vote.

Mayor Brescia discussed the possibility of EMS certification for police officers. OIC Luffman advised three officers are firearm certified.

Trustee Kiernan advised he had questions about ID's and badges and OIC Luffman has answered his questions.

**RE: PARK – SKATEBOARDS**

OIC Luffman said because of recent incidents that occurred in the park concerning the skateboarders he's looking for some direction from the Board.

Trustee Kiernan advised he was a witness to a recent incident involving skateboarders in the Veterans Memorial Park. Some were pretty abusive to the Village police. Mayor Brescia said one skateboarder was injured when he fell off the skateboard ramp. Atty. Dowd mentioned a couple of years ago the Board decided not to go forward with the skateboard park, they resolved to remove all the skateboard makeshift equipment from the Park. . . Mayor Brescia said the Board did not have a problem with anything under the two feet and they abused that. Atty. Dowd added it is on the Village's property and in view of the D.P.W. and police departments and if it is not being policed, you are allowing it and if injuries happen, the Village will be liable. Mayor Brescia said it is not an easy situation. There was vandalism at the park comfort station and pavilion, they gather in front of businesses with large groups, the municipal parking lot sign was torn down. Trustee Cantiello said the props should be removed. This is similar to what happened last time with the skateboarders. Atty. Dowd advised Walden has a skateboard law even though they have a skateboard park. Deputy Mayor Scheels said we can work on our skateboard law in the mean time. Mayor Brescia asked for the skateboard props to be returned to the owners and any props put back in the park to be removed. They can still skateboard there but not with any props. Deputy Mayor Scheels said that is what the Board originally agreed too. OIC Luffman explained he needs something in writing in order to be able to take their property away. Atty. Dowd advised that can be done through the law. Mayor Brescia asked Atty. Dowd to submit the local law to the Board for review.

**RE: MONTGOMERY VILLAGE MUSEUM**

Vlg. Historian Wild reported the museum will be open Saturday, 1-4 PM and special events will be planned. It will be advertised on the Village community bulletin board and in the local newspaper.

**RE: REQUEST BY RESIDENT – USE OF PELLET GUN**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board denied Sheldon Scruggs, Senior Street, request to use a pellet gun at his residents for the purposes of target shooting because New York State Law preempts local codes on use of pellet guns. The motion carried by a 5-AYE, 0-NAY vote.

**RE: WASTEWATER TREATMENT FACILITY EXPANSION**

Moved by Trustee Kiernan, seconded by Trustee Andolsek, the Board declared Lead Agency, Type I Action, pursuant to SEQRA for the purposes of expanding the Village Wastewater Treatment Facility by 250,000 gpd, from 500,000 gpd to 750,000 gpd. The motion carried by a 5-AYE, 0-NAY vote.

**RE: EXECUTIVE SESSION**

Moved by Trustee Cantiello, seconded by Trustee Andolsek, the Board entered EXECUTIVE SESSION at 8:25 P.M. under Public Officer Law §7(f) to discuss police department personnel with OIC Luffman, Atty. Dowd and Vlg.Clerk Thompson in attendance. The motion carried by a 5-AYE, 0-NAY vote.

Moved by Trustee Kiernan, seconded by Deputy Mayor Scheels, the Board went out of EXECUTIVE SESSION at 8:42 P.M. The motion carried by a 5-AYE, 0-NAY vote.

**RE: POLICE DEPARTMENT PERSONNEL**

Moved by Trustee Kiernan, seconded by Deputy Mayor Scheels, the Board approved an increase of \$3.00 per hour (from \$19.68 to \$22.68) for Officer-In-Charge Lufman retroactive to June 1, 2008. The motion carried by a 4-AYE, 0-NAY vote.

**RE: EXECUTIVE SESSION & ATTORNEY/CLIENT SESSION**

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board entered EXECUTIVE SESSION at 8:45 P.M. under Public Officer Law §7(h) to discuss possible litigation and then adjourned to attorney-client communication to seek legal advice concerning a sewer matter, respectively, with DPW Supt. Nelson, Atty. Dowd and Vlg.Clerk Thompson in attendance. The motion carried by a 5-AYE, 0-NAY vote.

Moved by Trustee Kiernan, seconded by Deputy Mayor Scheels, the Board went out of EXECUTIVE SESSION at 8:59 P.M. The motion carried by a 5-AYE, 0-NAY vote.

**RE: SEWER CONNECTION – 250 GOODWILL ROAD**

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board was in agreement to refund Michael Buonoato, 250 Goodwill Road, for sewer rent only, less the semi-annual rate of \$50 paid for sewer rent only customers (customers that have water connection only), not to exceed a period of six years, and subject to inspection and confirmation by DPW Supt. Nelson and B/I Yancewicz that said customer is connected to Village sewer system. The motion carried by a 5-AYE, 0-NAY vote.

**RE: ADJOURNMENT**

Moved by Trustee Kiernan, seconded by Trustee Andolsek, the Board adjourned the meeting at 9:00 P.M. The motion carried by a 5-AYE, 0-NAY vote.

---

Village Clerk    Linda L. Thompson