

**MINUTES** of a Regular Meeting of the Village Board of Trustees held Tuesday evening, July 15, 2008 at 7:00 PM, Village Hall, 111 Elm Street, Room 202, Penn Yan, NY 14527

**PRESENT** Mayor D. Marchionda Jr.; Trustees W. Allison; R. Church; N. Taylor; M. D'Abbracci; B. Hoban ; R. Stewart; Attorney Ed Brockman; Clerk/Treasurer S. Wilber; CEO B. Lyon; Director of Public Works E. Balsley; Police Chief Mitchell; Street Superintendent R. Jensen; Parks Director D. Doyle; Assistant Director of Public Works R. Osgood; Fire Chief B. Winslow

**ABSENT**: Cemetery Superintendent L. Axtell;

News Media present: Gwen Chamberlain, Chronicle Express; Amanda Folts, Finger Lakes Times; Peg Thompson, Dundee Observer

**PUBLIC**: Chris Vaughan, Ramona Spencer, Gordon Spencer, Robert Nielsen, Bill Pitcher, Wayne Davidson, Lisa Miller

Mayor Marchionda called the meeting to order at 7:00 PM.

**MINUTES:**

MOTION by Trustee Hoban, seconded by Trustee Taylor to approve the Village Board Minutes from June 17, 2008 and the Special Village Board Meeting from June 23, 2008.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**GUESTS, PUBLIC REQUEST & COMMENTS:**

Chris Vaughn talked about the success of the Art, Culinary and Wine Festival held on June 14<sup>th</sup> & 15<sup>th</sup>. Chris wanted to thank the Village Board for letting him hold the festival; he would also like to thank Dan Doyle and Bruce Lyon for all their hard work they did assisting with the festival. He thanked Chief Gene Mitchell and officers for the Security for the weekend. Chris mentioned there were around 3,000 - 3,500 people that attended. He has received good feedback from vendors and festival attendees. Chris would like to have another Festival next year on June 13<sup>th</sup> & 14<sup>th</sup> and would like to ask 20 more vendors to attend next year.

MOTION by Trustee Church, seconded by Trustee Hoban to approve that Chris Vaughan may hold the Art, Culinary and Wine Festival for next year on June 13<sup>th</sup> & 14<sup>th</sup>, 2009

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Gordon Spencer spoke for his Aunt Ramona Spencer. She would like to put vinyl siding on her home on Clinton Street. Ms. Spencer did attempt to speak at the Historic Pres. Meeting but not enough of the Committee was present to discuss it. Mrs. Spencer did receive a denial letter from the Historical Pres. Committee. Mrs. Spencer would like to plead her case before the Committee. The Mayor and Bruce Lyon mentioned they both are not that familiar with all the Historical guidelines. The Mayor suggested that the Clerk's office contact the Secretary for the Historical Committee and let Gordon Spencer know when the next meeting is. This would be best way to resolve their questions.

Robert Nielsen- Yates County Legislator, Chairman of the Shared Services stated we have held two Public meetings for Public input on the PY Police Department and the Village Court. Mr. Nielsen would like the Village Board to put the option of dissolving the Village Police Department to public referendum to determine what the taxpayers want. This is the only true way to poll the taxpayers. Mr. Nielsen felt the PY Village Board attempted to undermine the study. Trustee Church stated he didn't recall making a comment for or against it. Chief G. Mitchell commented that he submitted a letter to the Mayor in support of the study. He asked for one thing to be included, which was a comprehensive study of efficiencies of operations of law enforcement agencies. Chief Mitchell stated that the one thing he asked for was not done. Mr. Nielsen feels the Village Board has the wrong approach to get the County to share sales tax and has never formally asked for it. He feels the County Officers will not agree to share Sales tax and that it will never happen. Mayor Marchionda stated that Yates County is one of a few Counties in NY State that do not share sales tax revenue. Mr. Nielsen told the Village Board they should approach the County and ask them to reimburse the Village the value of the property taxes that have been taken off the tax rolls by

the County. Mayor Marchionda briefly stated that they are looking into the pros and cons of becoming a City and if we become a City we will automatically get the sales tax. Trustee Taylor feels we should talk after the final study/report from the CGR on the shared Services comes out.

Bill Pitcher talked about his concern for his neighbor burning items and leaving it unattended. Mr. Pitcher mentioned the Village code is poorly written regarding outside burning and would like it updated. Mr. Pitcher is afraid that something could happen when the fire is unattended. He has notice the resident starting the fire by gasoline. Atty. Brockman mentioned he would take a look into the code for burning.

Dick Osgood talked about the \$400,000 grant for the YCRR. It has come to his attention that some additional paperwork needs to be filled out along with naming a Certified Officer. Dick spoke with the YCRR Board and they have all agreed to have William Allison as the Certifying Officer.

Trustee Hoban question that maybe it should not be a Board member. Dick stated this could be anyone and elected Willie.

MOTION by Trustee Church, seconded by Trustee Taylor to appoint William Allison as the Certifying Officer for the YCRR.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Mayor Marchionda read line by line the Short Environmental Assessment Form for the YCRR Community Center.

MOTION by Trustee Allison, seconded by Trustee Church to approve the Short Environmental Assessment Form for the YCRR.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Dick Osgood mentioned the phone conference on Monday with Charlie Philion from the Office of Small Cities to discuss the YCRR grant. He also suggested that a motion be made tonight for an extension for the grant for the YCRR just in case we need it. Will know more after the phone call on Monday.

MOTION by Trustee Allison, seconded by Trustee Taylor to approve the request for the extension for the YCRR grant if needed.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

#### **ATTORNEY:**

Atty. Brockman stated he should have the information on the Outdoor Wood burning stoves ready for next months meeting.

Atty. Brockman mentioned the Designation for Signage is finished, he will proof read it and present it at the August meeting.

MOTION by Trustee Hoban, seconded by Trustee Church to approve Resolution NO 41-2008 Limiting Penn Yan Municipal Electric Service to Franchise Areas and the Territorial Limits of the Village of Penn Yan

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**WHEREAS**, the Village of Penn Yan operates a municipal electric utility service; and

**WHEREAS**, such municipal electric utility service provides electric to its customers at a cost which is lower than that provided by non-municipal electric utility companies; and

**WHEREAS**, in the past the Penn Yan electric utility service has offered electric service to customers outside the limits of the Village of Penn Yan without requiring the properties upon which those customers were located to be annexed into the Village of Penn Yan; and

**WHEREAS**, such expansion outside the Village limits generally requires that the Village install poles, wires and other components for the provision of electric service, the cost of which is not recouped by the Village for many years through the sale of electric to the expanded customer base; and

**WHEREAS**, the Village has previously acquired franchise areas from electric utility companies outside the Village limits for the providing of municipal electric service; and

**WHEREAS**, the Municipal Utility Board of the Village of Penn Yan, on April 15, 2008 adopted a motion recommending that the Board of Trustees of the Village of Penn Yan formalize a policy of prohibiting further expansion of electric service outside the Village limits unless the territory upon which the new customer is located is to be annexed into the Village of Penn Yan or located in such a franchise area served exclusively by the Village of Penn Yan.

**NOW THEREFORE BE IT**

**RESOLVED**, that it shall henceforth be the policy of the Village of Penn Yan to prohibit further addition or expansion of Penn Yan Municipal electric customers outside the geographic limits of the Village of Penn Yan unless there shall have been annexation into the Village of the territory to which such electric service is to be provided or the territory is located in a franchise area served exclusively by the Village of Penn Yan for electric service.

MOTION by Trustee Hoban, seconded by Trustee Church to approve to hold a Public Hearing on Aug 19<sup>th</sup> at 7:00pm for the changing of Kimball Ave. to a one-way Street.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Discussion: Atty. Brockman asked if the Board would like to change the name of Kimball Ave. at the same time they are changing it to a one -way Street? He could include the name change in the documentation. Need to inform the Atty. within a week or so of the new name.

**CALL FOR EXECUTIVE SESSION:** MOTION by Trustee Church, seconded by Trustee Taylor to have an Executive Session for legal issue with the Town of Jerusalem.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**ADJOURNMENT INTO EXECUTIVE SESSION:**

MOTION at 7:42 PM, by Trustee Church seconded by Trustee Taylor to adjourn into Executive Session regarding legal issues with the Town of Jerusalem.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Mayor Marchionda excused Atty. Brockman at 8:00pm from the Executive Session and the remainder of the Village Board meeting.

**ADJOURNMENT OUT OF EXECUTIVE SESSION:**

At 8:14 PM, MOTION by Trustee Hoban, seconded by Taylor to leave the Executive Session and return to the regular Village Board Meeting.

MOTION by Trustee Allison, seconded by Trustee D’Abbracci to transfer legal files relating to the Jerusalem sewer agreement from Harris Beach, PLLC to Bond, Schoeneck & King, PLLC.

Mayor Marchionda	Aye	Trustee D’Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**MAYOR:**

MOTION by Trustee Allison, seconded by Trustee Church to authorize the Mayor to sign the Penn Yan Library Agreement and pay them \$1,000.00.

Mayor Marchionda	Aye	Trustee D’Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**MOTION :** by Trustee Church, seconded by Trustee Allison to pay current Village and Municipal bills as submitted.

**AUDIT:**

VILLAGE:

Paid before Audit - General Fund	\$	390.00
General Fund		339,543.08
Capital Fund		00.00
TOTAL VILLAGE AUDIT:	\$	<u>339,933.08</u>

MUNICIPAL:

Paid before Audit	\$	183,255.73
Capital Paid before Audit		00.00
Electric Fund		29,759.94
Sewer Fund		38,238.30
Water Fund		54,077.49
Capital Projects		00.00
TOTAL MUB AUDIT:	\$	<u>305,331.46</u>

Mayor Marchionda	Aye	Trustee D’Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**FINANCE & ADMINISTRATION:**

MOTION by Trustee Church, seconded by Trustee Taylor to approve payment to D&D Guns for 15 pistols in the amount of \$4,372.20.

Mayor Marchionda	Aye	Trustee D’Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

MOTION by Trustee Church, seconded by Trustee Hoban to approve Hunt Engineers proposal of \$3,750 for Railroad Siding to be built near the sewer treatment plant.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

MOTIN by Trustee Church, seconded by Trustee D'Abbracci to adopt the new mileage rate of 58.5 cents per mile effective July 1, 2008

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**PERSONNEL:**

MOTION by Trustee Stewart, seconded by Trustee Taylor to hire Joshua Smith Contingent Provisional Meter Reader, effective July 14<sup>th</sup>, 2008. Starting rate of \$15.76 per hour.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

MOTION by Trustee Stewart, seconded by Trustee D'Abbracci to amend the summer employees pay schedule for head lifeguards to \$9.30 per hour.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Discussion; Trustee Stewart mentioned the original approved hourly rate was lower than last year rate.

**PARKS & RECREATION:**

MOTION by Trustee Hoban, seconded by Trustee D'Abbracci to approve Resolution NO. 40 – 2008, Regarding Hold Harmless and Indemnification of Nurse for Services to Village Summer Youth Recreation Program.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**WHEREAS**, the Village of Penn Yan operates a Summer Youth Recreation Program consisting of various activities; and

**WHEREAS**, the Village is advised by the State of New York that youths participating in such programs must submit medical forms which are required to be evaluated by a registered nurse on behalf of the Village; and

**WHEREAS**, the Village Recreation Department is attempting to obtain voluntary services of a registered nurse to perform the requisite tasks; and

**WHEREAS**, there are liability issues on the part of any registered nurse who would perform those voluntary services; and

**WHEREAS**, it is the intent hereof to relieve any such volunteer registered nurse of liability with respect to the performance of the requisite tasks for the Summer Youth Recreation Program.

**NOW THEREFORE BE IT RESOLVED, THAT**

In consideration of voluntary services provided by any single registered nurse to the Village of Penn Yan Summer Youth Recreation Program, to the limits thereof required by the State of New York for such Summer Youth Recreation Program, the Village of Penn Yan agrees to indemnify and hold harmless such volunteer registered nurse from all claims or damages, including costs of defense against such claims or damages, solely in connection with nursing services to be provided on a voluntary basis by such registered nurse to the Village of Penn Yan for the Summer Youth Recreation Program, limited to the acts of such registered nurse in his or her activities in performing those services required by the State of New York with respect to said Summer Youth Recreation Program.

Trustee D’Abbracci mentioned the Summer Youth Programs started Monday July 14<sup>th</sup>. Dan Doyle stated we have around 40 kids this year. Last year was around 70. Red Jacket runs on M – Weds. – F and Indian Pines is Tues. – Thurs. Hours are 10:00am – 1:00. Open swimming is from 1 – 2pm. Dan stated the program was delayed by one week and thought that could have contributed to the lower number.

**PLANNING BOARD:**

Trustee Hoban mentioned Rich Pierle is a new Committee member.

**PLANNING & DEVELOPMENT:**

MOTION by Trustee Hoban, seconded by Trustee Stewart to have another survey done for the Police Department for \$5,000.

Discussion: Trustee Hoban talked about a survey to be done for the Management Study for the Police Department. They would look at the staffing needs- shift options etc. They would speak with the Village Officials and the Police staff in person. Trustee Taylor spoke up stating that it does sound like a good idea but at this time she would like to wait a month to hear the results from the feasibility study from the County. Trustees Allison and Church also would like to wait.

Trustees Hoban and Stewart both withdrew their initial motion, will wait for the results from the County.

**PUBLIC SAFETY:**

Trustee Taylor mentioned the Public Safety would not meet during the summer months unless there is a need to.

**POLICE DEPARTMENT:**

Trustee Taylor mentioned the new handguns are in and will be making the transition in late July or early August. The new Durango is in and Sgt. Hulse will be working on outfitting this.

Chief G. Mitchell asked if Atty. Brockman had reviewed the advertisement for the guns (a couple of revolvers and a rifle). S. Wilber was unsure of this.

Trustee Taylor mentioned that Police Chief Gene Mitchell looked very nice in his uniform.

**FIRE DEPARTMENT:**

Chief Brian Winslow talked about the fireman having physicals and fit testing. He will be encouraging the truck drivers also have physicals.

MOTION by Trustee Allison, seconded by Trustee Taylor to approve the installation of the generator in the Firehouse.

Mayor Marchionda	Aye	Trustee D’Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Trustee Allison talked about the Firehouse project. Have talked with a local contractor also checking out prices. Looking for cost savings - use siding instead of brick – aluminum instead of copper wire. Looking at local contractors. Bids to be out by Aug 7<sup>th</sup>.

Trustee Hoban wants to be sure that the Fire Chief has reviewed the plans and he is satisfied with the changes. Chief Winslow was ok with the changes.

MOTION by Trustee Allison, seconded by Trustee Hoban to advertise for Bids on the Firehouse.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

Trustee Church asked to be removed from the Firehouse Committee –a conflict of interest since he is a Volunteer fireman. Mayor and Board agreed with his removal.

Trustee Church talked about the Firehouse entrance and the crack in the floor where the equipment is located. Feels should be able to be taken care of in house not contracted out. This is not part of the contract.

Was discussed about the Main overhead doors and windows – can this be done separate. Clerk/Treasurer Wilber has money for both.

**CODE ENFORCEMENT:**

No Report

**PUBLIC WORKS:**

MOTION by Trustee Allison, seconded by Trustee Church to declare one DPW 5 (1983 dump truck) and the older line paint machine (walk behind) as surplus equipment.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

MOTION by Trustee Allison, seconded by Trustee Church to advertise For Sale/ Bids for one PW 5 (dump truck).

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**STREETS:**

Trustee Allison talked about the water lines on South Ave are being changed from a 4” line to a 10” line and this is almost done. Talked about two different materials for the repaving the Streets - East Main to Lake Street and Lake Street to Brown. Asphalt is going up.

Mayor Marchionda asked if a crew would be going out to fill potholes. Dick Osgood mentioned at this time the men are concentrating on the sidewalk at the upper end of East Main after that will be going out.

Trustee Stewart asked about another cross walk on Lake Street other than the one light at the corner of Lake and Brown Streets. Dick Osgood stated this is a State Road and they are responsible. Dick thought maybe something might be done when Peebles arrive he will submit a letter to the DOT and ask.

**MUNICIPAL:**

MOTION by Trustee Allison, seconded by Trustee Hoban to approve Lu Engineers to update the Penn Yan water model, not to exceed \$10,000.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

MOTION by Trustee Allison, seconded by Trustee Church to approve the attendance of up to (12) twelve employees to attend the FLWWC Summer meeting, Thursday August 7, 2008 at the Penn Yan Fireman's Field. \$35.00 per member.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

MOTION by Trustee Allison, seconded by Trustee Hoban to approve the Payment Agreements in the amount of \$4,031.41

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

**COMMENTS:**

Trustee Allison discussed the issue of the Departments wanting to work 4 – 10 hour days. Discussed if it would save money – then it would be worth doing. After a brief discussion, was decided to start with one Department and see how it works. Decided to start with the DPW and if the Union is in mutual agreement with this they will start and go till Oct. 1<sup>st</sup>. (start date is undecided at this time). Randy Jensen stated with his crew, that Friday afternoons are very hard to get any work done and get around the town. He also mentioned that 4 – 9's and ½ day on Friday would be better for his crew. Felt that starting any earlier than 7 am the residents would not be happy with the noise. If all goes well will look into other Depts. trying it .

Trustee Allison briefly spoke about the Wicks Law article in the June NYCOM book – feels this could be beneficial for some or our projects. Would like the Boards members to review this.

**ADJOURNMENT:**

At 9:30 PM, Trustee Church, seconded by Trustee D'Abbracci to adjourn the regular Village Board meeting.

Mayor Marchionda	Aye	Trustee D'Abbracci	Aye
Trustee Taylor	Aye	Trustee Hoban	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee Church	Aye		

Carried

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Mary Ann Martin, Deputy Clerk

**ANNOUNCEMENTS:**

Next Village Meeting will be held August 19<sup>th</sup>, 2008 at 7:00 PM Village Hall.