

MINUTES of a Regular Meeting of the Village Board of Trustees held Tuesday evening, July 27, 2004 at 7:00 PM in the Maxwell Building, 127 Main Street, Penn Yan, New York.

PRESENT: Deputy Mayor W. Allison; Trustees N. Koek, N. Taylor, G. Smith and M. Christensen; Director of Public Works Balsley; Asst. Director of Public Works R. Osgood; Village Attorney E. Brockman; Village Treasurer Socola; Recreation Director D. Doyle, Police Chief Hill, and CEO Lyon

ABSENT: Mayor Marchionda (joined the meeting at 8:20 PM), Trustee R. Schwingle, Street Superintendent Jensen, Fire Chief Pallar, and Cemetery Superintendent Trenchard

Public Attendees: Mr. & Mrs. Robert Davis, Mr. Karol Hartman, Mr. & Mrs. Jim Castner, Mrs. Birmingham, Reid Jensen, Mrs. Armstrong, Anne Gunn, Deb Warren, Mr. & Mrs. Rich Stewart, Bob Hawley and Art Bechhoefer

News Media present: Gina Muscato, Finger Lakes Times and Connie Murphy, Chronicle Express

Deputy Mayor Allison called the meeting to order at 7:02 PM and led the Pledge Allegiance to the Flag.

CALL FOR EXECUTIVE SESSION:

MOTION by Trustee Taylor, seconded by Trustee Koek to hold an *Executive Session* at the end of the meeting concerning personnel matters. Unanimously Carried.

MINUTES:

MOTION by Trustee Koek, seconded by Trustee Taylor to approve the minutes of the regular Village Board meeting of June 22nd and Special Village Board minutes for July 6, 2004 as submitted. Unanimously Carried.

As advertised, Deputy Mayor Allison opened the Public Hearing for Local Law D of 2004 amending the “Zoning law of the Village of Penn Yan, New York” in the Village Code, providing for the addition of special use procedures, manufactured homes regulations, adult use establishment regulations and corresponding definitions. The Deputy Mayor asked if there were any comments.....

(Clerk’s note: the following is not verbatim)

Bob Hawley, 26 Champlin Avenue, asked what three areas would allow adult entertainment. Trustee Christensen, Chair of the Planning & Development Committee, said there was an area between Lake Street and the Outlet, Industrial Park on Powell Lane and Horizon Business Park. The new law would allow adult entertainment only in Industrial and General Commercial zones if they meet the special use criteria. He explained that if a specific use is not actually prohibited in the code, any undesirable “adult” business could go into any district, even on Main Street. The purpose is to restrict the adult entertainment in only those two zones. He also said that the “Use Regulation Table” attached to the proposed Local Law D of the Year 2004 was not the correct table.

Barb Stewart, 342 Elm Street, asked what would stop the adult entertainment from establishing itself anywhere. CEO Lyon explained this zoning would restrict adult entertainment to those areas that meet the criteria.

Art Bechhoefer, 1128 East Bluff Drive, said that according to the most authoritative zoning expert in New York State, special use permits should not be used for adult entertainment businesses. If the business meets the regulations, they could set up business anywhere. Trustee Christensen explained that the Village is trying to keep such businesses from Penn Yan, and if we don’t designate the areas and criteria, they certainly could open their business anywhere in the Village.

Mr. Hawley directed his arguments directly to CEO Lyon, who tried to explain the importance of this law.

Jim Castner, Chair of the Planning Board, reiterated that the threat of adult businesses coming into the Village is a real possibility, as we have nothing to stop them. By law, the Village needs to provide a place, but by adopting this law, we can at least have control of where they are allowed to set-up business.

Mr. Bechhoefer stated that the draft full EAF should not have been a “negative” declaration, but a positive one.

Anne Gunn, 402 Elm Street, brought to the Board’s attention that on page 21 of the “Use Regulation Table” under Nonprofit club, membership uses, a “P” was typed under the Industrial district. Since it wasn’t there before, it’s believed to be a typo, but will be checked out.

Deputy Mayor Allison thanked everyone for his or her comments, left the hearing open, and continued with the regular meeting.

GUESTS, PUBLIC REQUESTS & COMMENTS:

(See **OTHER** at the end of the meeting)

MAYOR:

Deputy Mayor Allison informed the Board that, due to time restraints and conflicts, Bernyce Dailey is resigning from the Historic Preservation District Commission, effective immediately. Bernyce was a very good member and will be missed. Her resignation was accepted with regret.

The Deputy Mayor read a letter from resident, Carol Oswald, 333 Main Street, thanking the DPW Crew for the wonderful job they did replacing the sidewalk at her Mill Street property. She felt lucky to live in a Village where its employees are willing to work hard to do the job right. *Nice letter to receive!*

Deputy Mayor Allison also read a letter from Stan Trenchard, the Village's Cemetery Superintendent, who has decided to retire, effective August 27, 2004. He thanked the Village for steady employment with good benefits over the past 14 years. Stan has been a true and loyal employee, and a very good superintendent. The Village appreciates his dedication and hard work and wishes him the best.

ATTORNEY:

Attorney Brockman reported that a meeting was held this afternoon at 5:00 PM with DVI, the Ad Hoc Committee and others, to review/discuss the newly submitted agreement between DVI and the Village. Now wireless service is being considered. They plan to meet again before the next Village Board meeting.

Attorney Brockman has received the parcel descriptions he requested for the proposed law to rezone the area along Route 14A south, near the bowling alley, and now will confer with Assistant DPW Director Osgood.

CORRESPONDENCE:

MOTION by Trustee Christensen, seconded by Trustee Koek to grant a banner permit to HUBBA that will hang on upper Main Street from September 13th to September 20, 2004 entitled "COMMUNITY FALL FEST SEPT. 19".

Unanimously Carried.

MOTION by Trustee Christensen, seconded by Trustee Smith to grant Mr. Johnston's request to extend the time period, due to the bad weather, of closing Maiden Lane to continue working on 142 Main Street (and Maiden Lane).

Unanimously Carried.

MOTION by Trustee Christensen, seconded by Trustee Koek to grant a banner permit to the YC Genealogical & Historical Society that will hang on upper Main Street from August 2nd to August 16, 2004 entitled "UNDERWOOD MUSEUM OPENING AUGUST 14".

Unanimously Carried.

MOTION by Trustee Smith, seconded by Trustee Koek to give permission for Idelle Dillon to allow Christian M. McBurney, Washington, D.C., to take an 8x10 black & white photograph of the Jemima Wilkinson painting which is located in the Oliver House.

Unanimously Carried.

MOTION by Trustee Smith, seconded by Trustee Koek to approve the request from the Penn Yan Manor to hold their annual fundraiser "Pencil Day" on Friday, September 3rd from 9AM to 3 PM at Community Bank, National Bank of Geneva, P & C, Sure Fine and Knapp & Schlappi.

Unanimously Carried.

Jim Barden, a Town of Jerusalem Board Member, has requested Village representation on a committee to develop and enact a law regulating permanent docks in Keuka Lake. Trustee Christensen volunteered.....

MOTION by Trustee Smith, seconded by Trustee Christensen to appoint Trustee Mike Christensen as the Village representative for the abovementioned committee.

Unanimously Carried.

MOTION by Trustee Smith, seconded by Trustee Koek to approve up to two members from the Penn Yan Planning and Zoning Boards to attend the 66th Annual New York Planning Federation Planning and Zoning Conference in Geneseo, NY on Thursday, July 29, 2004.

Unanimously Carried.

AUDIT:

MOTION by Trustee Smith, seconded by Trustee Koek to pay the current bills as submitted:

Village:	Paid before audit—General Fund	3,428.83
	General Fund	122,720.64
	Comm. Dev.	490.68
	Capital (Horizon Pk.)	1,706.01
	Capital (Vill. Off. Bldg.)	275,698.72
Municipal:	Paid before audit – Electric	39,298.53
	Electric	207,306.91
	Water	131,526.48
	Sewer	59,912.14

Unanimously Carried.

FINANCE & ADMINISTRATION: G. Smith

The last meeting was held this afternoon, Tuesday, July 27th at 2:30 PM in the Village Office, 2nd fl.

MOTION by Trustee Smith, seconded by Trustee Taylor to attend both the NYS GFOA Cash Management Workshop and Summer Seminar in Ithaca, NY on August 11th and 12th, and the NYCOM Fall Training School in Ellenville, NY from September 20th to September 24, 2004.

Unanimously Carried.

PERSONNEL: N. Koek, Chair

Last meeting was held this morning, Tuesday, July 27th at 7:00 AM in the Village Office, 2nd fl.

The next Civil Service examination for the position of *Water Treatment Plant Trainee* will be held August 14th. The Committee will wait until the list is finalized before choosing applicants to interview.

PARKS & RECREATION – Randy L. Schwingle, Chair

A meeting will be scheduled for August at a later date.

Trustee Koek reported that he and Recreation Director Doyle attended the *Athletic Fields Consortium* meeting at Keuka College this afternoon. The 2003-2004 Usage and Expense Reports was distributed for the Board's perusal. Recreation Director Doyle reported that the summer programs are going especially well this year, due to having

adult leadership with structured activities for the children. Trustee Koek informed the Board that because of the continuous vandalism at the skate park located at the boat launch, there's a good chance it will be closed. As usual, it's a few spoiling it for the majority.

PLANNING & DEVELOPMENT: M. Christensen

The last meeting was held Monday, July 26th in the Village Office at 7:00 PM.

Trustee Christensen reported that the committee is continuing with the process of *definitions*.

PUBLIC SAFETY: N. Taylor, Chair

The next meeting is scheduled for Tuesday, August 24th at 1:00PM at the Wagner Inn.

Police Department:

Chief Hill informed the Board that many boat trailers are “stored” at the boat launch site, leaving very little room for the daily boat trailer/vehicle traffic. There is a sign that reads “NO OVERNIGHT PARKING”, however, Chief Hill would like to add another sign below it stating “UNATTENDED TRAILERS WILL BE TOWED”. The Board had no objection. Also, Chief Hill reported to the Board that he discarded three junk computers. After removing any valuable informational parts, they were donated to the Boy Scouts for their use.

Fire Department:

MOTION by Trustee Taylor, seconded by Trustee Koek to elect Patrick S. Wilson and Paul G. Knapp into membership in the Ellsworth Hose Company of the Penn Yan Fire Department. Unanimously Carried.

MOTION by Trustee Taylor, seconded by Trustee Christensen to remove Elijah Franklin from the active roll of the Penn Yan Fire Department. Unanimously Carried.

Trustee Koek read the “Report to the Chief of 2004 YTD – 07/26/04”, prepared by Fire Chief Pallar, to the Board, which will be filed in the Village Office.

Code Enforcement:

MOTION by Trustee Taylor, seconded by Trustee Christensen to reaffirm authorizing the Mayor to sign the Code Enforcement Officer’s request to hire a contractor to mow the yards at 124 Lake Street and 117 Henry Street, per Section 56-5 and the cost will be added to their properties on the 2005-2006 tax roll. Unanimously Carried.

MOTION by Trustee Taylor, seconded by Trustee Christensen to authorize Code Enforcement Officer Lyon and part-time Code Officer Hofschneider to attend the NYS Energy Code Courses in Canandaigua on August 9th for a total cost of \$180.00. Unanimously Carried.

PUBLIC WORKS: W. Allison, Chair

The next meeting is scheduled for Monday, August 16th at 1:00 PM in the Village Office, 2nd fl.

Streets:

Old Business.....

- (1) The request from Nelson & Neena Hansen, owners & operators of Spruce Acres, to create an access road to their property from the Industrial Park was denied because the Village does not own the property in question. Assistant Director of Public Works Osgood will talk to Mr. Hansen.
- (2) The boiler violations at the Oliver House Museum will be repaired by Fingar Plumbing & Heating.
- (3) The request from the “Penn Yan Dollars for Scholars” to erect signs at two entrances into the Village is still in committee.

MUNICIPAL:

Last meeting was held on Thursday, July 22, 2004 at 2:00 PM in the Maxwell Building

MOTION by Deputy Mayor Allison, seconded by Trustee Christensen to adopt RESOLUTION NO. 32-2004 designating Director of Public Works Balsley as the Accredited Delegate” for the MEUA Annual Conference. Unanimously Carried.

► At 8:25 PM, Mayor Marchionda joined the meeting.

MOTION by Trustee Koek, seconded by Trustee Christensen to authorize up to three employees to attend the MEUA Annual Conference in Fairport, NY from September 14th to September 17, 2004. Unanimously Carried.

MOTION by Deputy Mayor Allison, seconded by Trustee Smith to approve the Municipal’s request to purchase a new pump for the Cherry Street Station. (The actual upgrade project was previously approved.) Unanimously Carried.

MOTION by Deputy Mayor Allison, seconded by Trustee Koek to grant the MUB’s request to purchase two sewer cameras from Joe Johnson Equipment, Tonawanda, NY at a total cost of \$57,599. Unanimously Carried.

The Municipal requested authorization to adopt a proposed amendment re: *Backflow Prevention Device Inspection Policy* in the Village Code Book, Section 198-10 “Cross-Connections and Backflow Prevention” Subsection C, Part 8. It was suggested to adopt all the proposed code changes at the same time.

MOTION by Trustee Koek, seconded by Trustee Smith to approve the Municipal’s request to award the bid to Niagara Transformer to purchase two transformers for a total cost of \$298,740 (bid tabulation on file). Unanimously Carried.

The Deputy Mayor asked if anyone would like to make a comment concerning the public hearing.....

OTHER:

Deb Warren, owner/operator of the Lamp Post Restaurant, 23 Main Street was present to request permission to hold an event similar to Crusin Night but with motorcycles. She would like to have Main Street closed from Elm to Seneca Street between 5:00 PM to 8:00 PM. The Board felt this should be discussed with the Chamber of Commerce and the Merchants Retail Council before going any further with the plans. Chief Hill said he would assist Ms. Warren and report at the August 24th meeting.

Deputy Mayor Allison asked again if anyone would like to speak regarding the public hearing.....

MOTION by Deputy Mayor Allison, seconded by Trustee Smith to close the public hearing for proposed Local Law D of 2004 amending the "Zoning Law of the Village of Penn Yan, New York" providing for the addition of special use procedures, manufactured homes regulations, adult use establishment regulations and corresponding definitions.
Unanimously Carried.

Mrs. Birmingham, Walnut Street, was present to voice her concern regarding the many "sign" variances, usually for "home occupations", the Zoning Board is approving. She totally objects to signs being allowed in residential areas. She asked the Village Board what she could do to stop it. The best suggestion was to attend the zoning meetings to express her opposition.

At 9:55 PM, MOTION by Trustee Koek, seconded by Trustee Christensen to adjourn into *Executive Session* concerning personnel matters.
Unanimously Carried.

(15 minute break)

During the *Executive Session*, and following discussion, MOTION by Trustee Koek, seconded by Deputy Mayor Allison, to pay Stan Trenchard, the Village's Cemetery Superintendent, upon his August 27th retirement, for two extra weeks of vacation.
Record of vote: 2 ayes 3 nays Motion Defeated.

MOTION by Trustee Smith, seconded by Trustee Koek to pay Stan a bonus amount of \$1,278.40 upon his retirement.
Record of vote: 4 ayes 1 nay Motion Carried.

At 10:00 PM, the Village Clerk was excused from the *Executive Session*.

At 11:35 PM, MOTION by Trustee Koek, seconded by Deputy Mayor Allison to adjourn the *Executive Session*, and the regular Village Board Meeting.
Unanimously Carried.

Linda K. Banach, Village Clerk

*The next Regular Village Board meeting is scheduled for Tuesday, August 24th

