

MINUTES of a Special Meeting of the Village Board of Trustees held Wednesday, July 6, 2011 at 8:00AM Village Hall, 111 Elm Street, Room 202, Penn Yan, NY 14527

PRESENT: Mayor R. Church; Trustees W. Allison; W. Davidson; R. Stewart; B. Winslow Attorney Ed Brockman; Clerk/Treasurer S. Wilber

ABSENT: Trustees C. Christensen; M. Christensen; Director of Public Works B. Bodine; Assistant Director of Public Works B. Jensen; Police Chief Hulse; Parks Director D. Doyle; CEO B. Lyon; Fire Chief R Simpson

News Media present: None

PUBLIC: Bob Hawley

Mayor Church called the Special Village Board meeting to order at 8:00 AM

Clerk/Treasurer S. Wilber discussed the FOIL Appeal. She read Mr. Hawley's FOIL appeal requesting the list of annuitants he received from the Village on 6-6-2011 as a request of his FOIL of 5-27-2011. Mr. Hawley is asking for what was redacted on the annuitants list that he received on 6-6-2011. On 6-29-2011 Shawna responded to Mr. Hawley's FOIL request which she received on 6-22-2011. Her response indicated due to the volume and number of requests, she would need more time and copies will be available within 20 business days. Shawna received another FOIL appeal on 6-30-2011 which he asked for two things 1. The record access officer didn't answer his FOIL in a timely manner, 6 days instead of 5 as law requires. 2. The record officer has the documents in her care already. Shawna explained the original FOIL was received on 6-22-2011 and you count the days; 23-24-27-28-and 29. She responded to him on the 29th. That is 5 business days. Shawna stated she responded to Mr. Hawley in a reasonable time, she was working up till 4:15pm of the 29th to get as much of the 8 requests answered. Within 2 days 5 FOIL requests were submitted. She explained one had 115 pages to copy. Atty. Brockman asked if she needed additional time to research this, Shawna replied yes. Mayor Church asked Mr. Hawley, you brought us in here because you thought it took 6 days instead of 5 is that really a big deal? Bob Hawley feels she didn't have to do any research; it was right in front of her. The original list she gave me had 18 names that are collecting pension and Bob Hawley is questioning is Ron Dailey collecting, his name was on the list. We know he is not 55. Bob Hawley stated so the list she gave me is not accurate. He wonders why she addressed other requests before this one. Mayor Church suggested to Mr. Hawley if you have a question why don't you make an appointment with the Fire Chief or Trustee Winslow. Trustee Winslow came to the Board in 1999 and got the ball rolling on the LOSAP Program and the Board has nothing to do with LOSAP other than they are the Administrator of it. Do that instead of filing these FOILs which take a lot of time. Bob Hawley said "I did it in the past and they say FOIL it, that's why Bob". Bob Hawley said, you are still paying 1/2 million dollars in the account and you don't know where it's going Bob. Mr. Hawley questioned, is it going to Ron Dailey, that is what it says. Trustee Winslow stated I believe that you asked for a list of who was eligible to receive it. Hawley answered no, who is accepting a pension at present. Trustee Winslow the list you have is money set aside that may or may not be in the plan any longer. Trustee Winslow the group who are collecting is one group and the other group is what we call the annuitants - because they are vested. Example, Ron Dailey is no longer a firemen but he was vested before he left and he is entitled to the benefit he earned. This money is set aside for them until they reach age 65. Bob Hawley said, the list I was given has people who are collecting a pension. Shawna explained to Mr. Hawley your request asked for that. I gave you a list of annuitants. Bob Hawley questioned a letter from Shawna, which she did not have with her nor did Mr. Hawley, and he replied well will that take 20 more days or what? Bob Hawley stated he called and spoke with Shawna and said the letter is wrong and you assured me it was right. Bob said instead of me appealing it lets sit down and discuss it and you said no this is the list of 18 people and you said are collecting a pension. Shawna explained, no I recall the conversation over the phone and you asked why Ron Dailey is on the list and I said because he received his credits and he is vested in the plan. This is just like anyone that has a 401k or any other retirement plan and Bob Hawley said oh that would be nice my benefit is sitting under the shade tree. Shawna explained again this is a list of annuitants it is not people collecting. Atty. Brockman stated an annuitant is anybody who has rights under an annuity policy, it doesn't mean they are collecting. Mayor Church again asked Mr. Hawley do you understand who is and who is not collecting. Mr. Hawley states she has not given me the list. Shawna explained on 6-22-2011 you filed 5 FOILs and on 6-25-2011 filed 3 more FOILs. She answered 6 of the 8 on 6-29. Trustee Stewart stated, Bob what you are looking for is the unredacted lists of annuitants. Mr. Hawley replied I just want what the law allows me to have, no DOB, SS# etc. Bob Hawley stated "according to Mr. Freeman the day I put the FOIL in counts for a day". Shawna explained "according to Mr. Freeman you must pay for you FOILS". Mr. Hawley according to Mr. Freeman they are up for examination first. Shawna explained not when information has to be redacted and the work has to be done to do that. Mayor Church asked Mr. Hawley again what don't you have. Mr. Hawley's reply was the two sheets that have 18 names on it- I want to know how much they are collecting and how much Ron Dailey is collecting. Shawna explained Mr. Hawley was given the information he asked for, the appeal is that it was not done in a timely matter and it's on my desk. Trustee Winslow explained these people were out of the program at one time and didn't get points for 2-3 years and this is what there vested rights are as

of today. At some point the plan purchased an annuity to cover that amount of money for the annuity. Trustee Winslow explained these others are all collecting. He explained that you can earn \$20.00 a year till age 65. The next pages are all collecting or are deceased and the spouse collecting. Bob Hawley asked where the list comes from. Shawna receives it from our third party administrator (VFIS) Volunteer Fireman Insurance System. Bob Hawley questions, does the Insurance carrier know that Mr. Jensen is passed and who sends the lists to the carrier, who writes out the checks, who ran the program before Shawna. Trustee Winslow replied Stork Insurance does not write the checks out and he assumes the former Treasurer signed and the Fire Chiefs forward a copy to the carriers.

MOTION by Trustee Stewart, seconded by Trustee Davidson to approve to give Mr. Hawley the un-redacted list with the information that he is allowed.

Shawna explained it's not that I am holding information from him. On the 29th when the FOIL was due I did not have enough time to prepare it by the close of business on the 29th, that is why he did not get it. I needed more time. He is not being denied access, I needed more time. Mr. Hawley asked do you have enough time now, Shawna replied she will finish it today. Atty. Brockman asked Mr. Hawley you are looking for a list of who is getting money now. Bob Hawley I am looking at the list she gave me and what was redacted. Shawna again stated the appeal today is 5 days verses 6 days. I have 20 days to complete the FOIL. The appeal has nothing to do with the list. Mayor Church explained its one day when you gave 8 FOILs and this is the 3rd meeting. Mayor church explained we are now aware that the Village Board needs to approve the list before it goes to the Insurance carrier.

Bob Hawley left meeting at this time.

Shawna explained – if he didn't appeal he would have gotten it on the 30th. I finished it on the 30th then I got the appeal so I had to process the appeal. Trustee Stewart & Davidson withdrew their initial motion.

MOTION by Trustee Davidson, seconded by Trustee Winslow to deny the appeal by Bob Hawley.

Mayor Church	Aye	Trustee Davidson	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee C. Christensen	Absent	Trustee Winslow	Aye
Trustee M. Christensen	Absent		

Carried

Shawna will have Mr. Hawley pay for these FOILs. Atty. Brockman explained FOILs in the past for \$27.00 and other one for 9.75 have not been paid for. This takes a lot of time to review. Trustee Davidson stated if a document has to be redacted before you can show someone they have to pay for it up front. Atty. Brockman and Shawna replied yes. Shawna also explained if it takes over 2 hours we can charge him for our time. Atty. Brockman brought up it takes a lot of time to do these FOILs she has other work to do. Trustee Stewart feels we have two Deputy Clerks to do this work, Shawna explained yes but there are a lot of things they are not aware of. Trustee Allison feels maybe we need to hire another person just to do FOILs.

MOTION by Trustee Winslow, seconded by Trustee Allison to approve Amended Resolution No. 42-2010 Budget Transfers for 2010-2011.

INCREASE:			<u>Fund Totals</u>
Account Id	Description		
	Budgetary Provisions - DPW Equipment Reserve		
1-A962			
		6,00	
1-A511	Reserve Funding - DPW Equipment	0	
			(6,00
1-A-2665	Sale of Equipment		0)
1-A -0000-0-000	GENERAL FUND		
1-A -1010-0-000	BOARD OF TRUSTEES		
			14
1-A -1010-4-460	Board of Trustees-Travel/Conferences	8	
			35
1-A -1010-4-480	Board of Trustees-Prof Fees/Publications	1	
1-A -1620-0-000	BUILDINGS		
			28
1-A -1620-4-500	Buildings-Supplies & Materials	0	
1-A -5110-0-000	STREET MAINTENANCE		
1-A -5110-2-200	Street Maintenance-Equipment		
			7
1-A -8010-1-100	Zoning-Personal Services	2	
1-A -8015-0-000	HISTORIC PRESERVATION		
1-A -8015-4-460	Historic Preservation-Conference/Travel/Mileage		25

		5			
			7		
1-A -8015-4-500	Historic Preservation-Supplies & Materials	<u>0</u>		1,17	
		<u>6</u>			
					1,17
					General 6
					Electric -
					Sewer -
					Water -
					<u>1,17</u>
DECREASE:					- 6
Account Id	Description				
1-A -0000-0-000	GENERAL FUND				
			77		
1-A -1362-4-410	Taxes-Tax Processing	9			
1-A -7510-0-000	HISTORIAN				
			10		
1-A -7510-4-410	Historian-Contractual Services	0			
1-A -8020-0-000	PLANNING				
			7		
1-A -8020-1-100	Planning-Personal Services	2			
			22		
1-A -8020-4-490	Planning-Engineering Fees	<u>5</u>		1,17	
		<u>6</u>			
					1,17
					General 6
					Electric -
					Sewer -
					Water -
					<u>1,17</u>
					<u>6</u>

Mayor Church	Aye	Trustee Davidson	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee C. Christensen	Absent	Trustee Winslow	Aye
Trustee M. Christensen	Absent		

Carried

MOTION by Trustee Winslow, seconded by Trustee Davidson to approve Amended Resolution No. 59-2010. Budget Transfers for 2010-2011.

TO:

Account Id	Description	Amount
		9,800
1-A -3410-0-000	FIRE	0
		2,000
1-A -3620-0-000	SAFETY INSPECTIONS	0
		20,000
1-A -8810-0-000	CEMETERY	<u>0</u>
		31,800
		<u>0</u>

FROM:

Account Id	Description	Amount
		9,800
1-A-9030-8-800	Appropriated Reserves	0
		2,000
1-A -9010-8-800	Employee Benefits-State Retirement	0
		20,000
1-A -9015-8-800	Employee Benefits-Police Retirement	<u>0</u>
		31,800
		<u>0</u>

Mayor Church	Aye	Trustee Davidson	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee C. Christensen	Absent	Trustee Winslow	Aye
Trustee M. Christensen	Absent		

Carried

MOTION by Trustee Allison, seconded by Trustee Davidson to approve Yates County Chamber of Commerce holds the annual sidewalk Sale on Saturday, July 30, 2011 from 7:30AM-2:00PM.

Mayor Church	Aye	Trustee Davidson	Absent
Trustee Allison	Aye	Trustee Stewart	Absent
Trustee C. Christensen	Aye	Trustee Winslow	Aye
Trustee M. Christensen	Aye		

Carried

Trustee Allison mentioned the Fireman marched in the Hammondsport parade. Received several awards and had 28 men March. Had a house fire yesterday which could have been worse but under control in no time.

ADJOURNMENT:

MOTION by Trustee Winslow, seconded by Trustee Allison to adjourn the Special Village Board meeting at 8:47 AM.

Mayor Church	Aye	Trustee Davidson	Aye
Trustee Allison	Aye	Trustee Stewart	Aye
Trustee C. Christensen	Absent	Trustee Winslow	Aye
Trustee M. Christensen	Absent		

Carried

Mary Ann Martin, Deputy Clerk