

**MINUTES** of a Regular Meeting of the Village Board of Trustees held Tuesday evening, November 8, 2005 at 7:00 PM, Village Hall, 111 Elm Street, Room 202, Penn Yan, New York.

**PRESENT:** Mayor D. Marchionda, Jr.; Trustees N. Taylor, W. Allison, and G. Smith, Village Attorney E. Brockman; Director of Public Works E. Balsley; Assistant Director of Public Works R. Osgood; and CEO B. Lyon

**ABSENT:** Trustees M. Christensen, N. Koek and R. Schwingle, Village Treasurer M. Socola, Police Chief S. Hill, Recreation Director D. Doyle, Cemetery Superintendent L. Axtell and Fire Chief J. Housel

Public Attendees: Sam C. Bonney, Esq., Mrs. Janet Butcher, Town of Benton Deputy Supervisor Robert Clark, 5 YASTA members, Elizabeth Armstrong and Anne Gunn

News Media present: Gina Muscato, Finger Lakes Times; Eileen Farrar, Chronicle Express and Gwen Chamberlain, Dundee Observer

Mayor Marchionda called the meeting to order at 7:03PM and led the Pledge Allegiance to the Flag.

**MINUTES:**

MOTION by Trustee Allison, seconded by Trustee Smith to approve the minutes of the October 11, 2005 regular Village Board meeting, as submitted..... Carried.

**GUESTS, PUBLIC REQUESTS & COMMENTS:**

◇ Attorney Sam C. Bonney, a Waterloo Attorney representing Robert Butcher, who resides at 2377 Widow Hill Road, was present to request annexation of Mr. Butcher's entire property into the Village. His property is located in the Towns of Benton and Jerusalem and a very small portion is in the Village of Penn Yan. The original request was to hook up to the Village's sewer system, as the existing septic system is no longer in compliance with the Town of Jerusalem. However, the present Village Board feels strongly that non-Village residents should not have the same benefits that Village taxpayers receive. Therefore, the properties should be annexed into the Village before they are hooked up. This is essential for the Village's growth. Also, if the property is annexed into the Village, it might have to be rezoned R-2 to allow Mrs. Butcher's manufactured home. Following further conservation, Village Attorney Brockman recommended.....

MOTION by Trustee Allison, seconded by Trustee Smith to adopt RESOLUTION NO. 33-2005 relative to a potential annexation proceeding concerning property located at 2377 Widow Hill Road, Penn Yan, NY. Carried.

◇ Jerry Nissen, Controller and Andy Davis, both from Coach & Equipment, 130 Horizon Park Drive were present to appeal CEO Lyon's denial to allow placement of an above ground 1,000 gallons double walled skid tank for diesel fuel storage. Mr. Nissen and Mr. Davis explained why it is so important to the Company in manufacturing of diesel chassis and also, outlined the precautions they would implement. As the Board is in favor of granting the appeal, Attorney Brockman suggested they review the short EAF at tonight's meeting.....

MOTION by Trustee Smith, seconded by Trustee Allison to adopt RESOLUTION NO. 34-2005 declaring the Village as lead agency and the action as "unlisted", adopting the short EAF, and directing the issuance of a negative declaration. Carried.

**MAYOR:**

MOTION by Trustee Smith, seconded by Trustee Taylor to adopt RESOLUTION NO. 30-2005 authorizing the Records Manger to cooperate in a grant application. Yates County is submitting the application under the State Archives program, not to exceed \$125,000, to deal with the storage of cartographic records for both the County and the Village. Carried.

Village Attorney Brockman suggested that the authorization for Mayor Marchionda to sign the *Amended Waterline Easement* received from the Yates County Attorney, Bernetta A. Bourcy be put on hold until the December 13<sup>th</sup> meeting. He has not seen this document and would like time to review it.

Douglas G. Marchionda, Jr., Mayor of the Village of Penn Yan, PROCLAIMED Tuesday, November 15, 2005 as *ACADEMIC EXCELLENCE DAY* in the Village of Penn Yan. The Trustees concurred.

**ATTORNEY:**

MOTION by Trustee Smith, seconded by Trustee Allison to adopt proposed Local Law D as *Local Law No. 03-2005* changing the zoning district classification of 6.752 acres on the west side of 14A South from Single Family Residential (R-1) to General Commercial (GC) as stated in RESOLUTION NO. 25-2005. Carried.

MOTION by Trustee Allison, seconded by Trustee Smith to adopt proposed Local Law E as *Local Law No. 05-2005* amending the penalty provisions of Chapter 92, Fire Prevention and Building Construction of the Code of the Village of Penn Yan as stated in RESOLUTION NO. 27-2005. Carried.

MOTION by Trustee Smith, seconded by Trustee Taylor to adopt proposed Local Law F as *Local Law No. 06-2005* amending the penalty provisions of Chapter 114, Housing Standards, of the Code of the Village of Penn Yan as stated in RESOLUTION NO. 28-2005. Carried.

MOTION by Trustee Allison, seconded by Trustee Smith to adopt proposed Local Law G as *Local Law No. 07-2005* amending the penalty provisions of Chapter 170, Solid Waste, of the Code of the Village of Penn Yan as stated in RESOLUTION NO. 29-2005. Carried.

At this time, Attorney Brockman and the Village Board reviewed, page-by-page, the full EAF, Part 2, relative to amending Chapter 132, Parks and Playgrounds of the Code of the Village of Penn Yan. The proposed Local Law H-2005 provides that operation of snowmobiles on the Outlet Trail and in the Elm Street Sports Complex recreation areas will be permitted.....

MOTION by Trustee Smith, seconded by Trustee Taylor to adopt RESOLUTION NO. 32-2005 calling for a public hearing, to be held on December 13, 2005 at 7:00 PM, a referral to the County Planning Board and full Environmental Assessment Form pertaining to the above mentioned proposed local law. Carried.

Attorney Brockman presented the Board with General Code Publisher’s proposal for Code Book software setup and maintenance, for \$5,500 the first year, and thereafter, an annual fee of \$880. The matter was referred to the December 13<sup>th</sup> meeting giving the Trustees time to review the proposal.

Attorney Brockman informed the Board that the judgment against Robert Youngs held by the Village for an overpayment claim, has been resolved. The initial judgment was \$5,100, but interest accrued over the years realizing a final amount due of \$12,662.45. The check was received November 4, 2005.

**CORRESPONDENCE:**

MOTION by Trustee Smith, seconded by Trustee Allison to approve the following four employees to attend the *Land Use Planning & Zoning - Legislation & Development Issues* luncheon meeting on Thursday, November 17<sup>th</sup> in Canandaigua, NY hosted by Lu Engineers: Asst. Director of Pubic Works and Planning Board member R. Osgood, Secretary to the Planning, Zoning & Historic Boards R. Cook, Code Enforcement Officer B. Lyon and Village Attorney E. Brockman. Carried.

The letter received from the NYS Historic Preservation Office (SHPO) informing the Village that the deficiencies found in the last audit must be addressed within 120 days, or certification could be revoked from the CLG program, was referred to Attorney Brockman for his review.

MOTION by Trustee Allison, seconded by Trustee Smith to approve the Chamber’s request to hold the annual *StarShine* event on Friday, December 2<sup>nd</sup> on Main Street from 4:00 PM to 9:30 PM. Carried.

MOTION by Trustee Smith, seconded by Trustee Taylor to direct Attorney Brockman to write to David Milliman, Executive Director of the Yates ARC, informing him that the Village would like them to vacate the “Owl’s Nest” building by February 28, 2006. Carried.

**AUDIT:**

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

|            |                                  |            |
|------------|----------------------------------|------------|
| Village:   | Paid before audit – General Fund | 23,208.84  |
|            | General Fund                     | 51,777.13  |
|            | Capital Fund                     | 4,066.00   |
|            | LDC '92 Funds                    | 20,782.60  |
| Municipal: | Paid before audit – Electric     | 169,364.30 |
|            | Electric Fund                    | 20,609.51  |
|            | Water Fund                       | 22,755.97  |
|            | Sewer Fund                       | 23,734.19  |
|            | Capital Electric                 | 4,549.55   |
|            | Capital Water                    | 744.40     |
|            | Capital Sewer                    | 6,770.97   |

Carried.

**FINANCE & ADMINISTRATION:** G. Smith, Chair; W. Allison & N. Taylor

Last meeting was this afternoon, Tuesday, November 8<sup>th</sup> at 2:30 PM in the Village Hall, 111 Elm Street, 2<sup>nd</sup> fl.

MOTION by Trustee Smith, seconded by Trustee Taylor to adopt RESOLUTION NO. 31-2005 Budget Transfer, in the amount of \$1,500. Carried.

MOTION by Trustee Smith, seconded by Trustee Taylor to designate *First Commercial Bank* as a depository for Village funds. Carried.

**PERSONNEL:** N. Koek, Chair, M. Christensen & R. Schwingle

No report.

**PARKS & RECREATION:** R. Schwingle, Chair, W. Allison & N. Koek

The last meeting was today, Tuesday, November 8<sup>th</sup> at 5:00 PM in the Village Hall, Room 202

No report.

**PLANNING & DEVELOPMENT:** M. Christensen, Chair, R. Schwingle, G. Smith

The October 24<sup>th</sup> meeting was canceled; the next meeting is scheduled for Monday, November 28<sup>th</sup> at 7:00 PM in the Village Hall, 2<sup>nd</sup> floor

No report.

**AD HOC BUILDING COMMITTEE:** D. Marchionda, Jr., Chair

Mayor Marchionda thanked everyone for their part in the successful *Armed Services Memorial Garden Dedication* ceremony held Saturday, October 29<sup>th</sup>. A special thank you to Jeff Stempien and the Middle School Band who played the National Anthem. Also, to the four past Mayors and Veterans Leigh MacKerchar, Jerry Nissen, Herb Fitch and Floyd Paddock; Yates County Veterans Service Director, P. Earle Gleason; Lt. Col. Les Wood, USAF, Ret., from Penn Yan; Congressman Randy Kuhl, NYS Senator George Winner, NYS Assemblyman James Bacalles and Kelly O’Connor, representative for NYS Governor George Pataki; the local Veterans organizations; Bill Knauss, Jens Jensen and many others.

**PUBLIC SAFETY:** N. Taylor, Chair, M. Christensen & N. Koek

The next meeting is scheduled for December 13, 2005 at Noon in the Wagner Inn on East Elm St.

**Police Department:**

No report.

**Fire Department:**

The letter from Don Rapalee addressed to DPW Balsley and the DPW Committee has been referred to Committee for their review.

**Code Enforcement:**

No report.

**PUBLIC WORKS:** W. Allison, Chair; G. Smith & N. Taylor

The next meeting is scheduled for Monday, 21<sup>st</sup> at 1:00 PM in the Village Hall, 2<sup>nd</sup> floor

**Streets:**

The petition from Burns Terrace residents requesting that the speed limit be changed from 30 mph to 20mph was also referred to the Public Safety Committee, as it could be an “enforcement” issue.

**Buildings:**

◇ The Village’s house at 361 Elm Street should be ready to rent by December 1<sup>st</sup>.

◇ Maxwell Building is ready for winter.

◇ The former police station on Basin Street needs immediate attention. Due to the leaking roof, mold and mildew are growing rapidly. Asst. DPW Osgood was asked to look into hiring someone to gut the interior as soon as possible.

**MUNICIPAL:**

The last meeting was Thursday, November 3<sup>rd</sup> at 2:00 PM at 111 Elm Street, Room 210

MOTION by Trustee Allison, seconded by Trustee Taylor to authorize Mayor Marchionda to sign *Change Order No. 1* to Finger Lakes Piping in the amount of \$2,228 for the Cherry Street Pump Station Upgrade project. Carried.

MOTION by Trustee Allison, seconded by Trustee Taylor to approve the Electric Department to purchase testing equipment for large electric meters from Sinlab Utility Instrumentation, Inc. in the amount \$3,870. Carried.

MOTION by Trustee Allison, seconded by Trustee Taylor to approve up to three employees to attend the MEUA Engineering Workshop on December 6<sup>th</sup> and 7<sup>th</sup> in Liverpool, NY. The cost is \$75.00 per person. Carried.

**ADJOURNMENT:**

At 9:03 PM, MOTION by Trustee Allison, seconded by Trustee Smith to adjourn the regular meeting. Carried.

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Linda K. Banach, Village Clerk

► The next regular Village Board Meeting is scheduled for Tuesday, December 13, 2005 at 7:00 PM.