

Regular meeting of the Board of Trustees of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, May 19, 2003 at 7:30pm.

PRESENT: Mayor Josephine C. Matela, Trustees Morton Wexler, James E. Whipple, Norman J. Knapp; and Peter C. DeToy, DPW Superintendent Bradley B. Upson, Building/Zoning Officer Scott C. Zarnstorff, Police Chief Daniel P. Varrenti, Treasurer Scott D. Rightmyer, Clerk Leslie A. Morelli.

EXCUSED: Planning Board Chair / Economic Development Coordinator Scott Winner, Village Attorney Edward W. Riley, Deputy Village Attorney Frank A. Aloj, Fire Chief Gregory B. Wing

ALSO PRESENT: Jim & Joan Hamlin, Ray & Jackie Morris, John Lessord, Kathy Snyder, Fred Webster, James Clark, Sr., Terry Green (Brockport Post), and several Brockport Police Department members and family members of Sergeants Mark Cuzzupoli and Mark Philippy for their swearing in.

CALL TO ORDER: Mayor Matela called the meeting to order and led the Pledge of Allegiance.

REVIEW OF MEETING MINUTES: Mayor Matela called for any additions or corrections to the minutes of the regular meeting held May 5, 2003.

➔ Trustee DeToy moved, Trustee Wexler seconded, unanimously carried that the minutes of the meeting held May 5, 2003, be approved as written.

PUBLIC HEARINGS: None

PUBLIC INFORMATION MEETINGS: None

GUESTS: None

PUBLIC COMMENT: None

DEPARTMENT REPORTS:

A. PUBLIC WORKS – Superintendent Bradley B. Upson

1. Resolution authorizing solicit bids for the purchase of one 1-ton F550 diesel truck w/ dump box & 9' plow – B. Upson shared that Truck 21 is a 1996 Dodge Ram 3500, used for snow plowing in the winter and hauling brush, dirt, and other construction materials the remainder of the year. It has a dump body and 9-foot snowplow. This vehicle has 22,451 miles on the odometer and is in need of over \$1,000.00 of mechanical work.

In his budget request for the 2002/2003 fiscal year, former Superintendent Perrine identified Truck 21 for replacement. The approved budget included \$33,000.00 (in Project 24) for that replacement. That estimate was based on 2002 NYS OGS contract bids. Treasurer Rightmyer published a Notice of Estoppel for this capital project in June of 2002.

Director of Operations Donahue and Shop Foreman Garrison have been working on specifications for a new truck. They have recommended that we replace Truck 21 with a one-ton, 9000# GVWR regular cab and chassis with a 325 horsepower diesel engine, four-wheel drive and 5-speed automatic transmission. A hydraulic dump body and a front reversing 9-foot plow will be required also. Based on the operations I have seen so far, I concur with their recommendation.

Under the 2003 NYS bids, Group 40570, Contract 01221, the equivalent vehicle now costs \$40,480.00. Since this amount exceeds the funds appropriated for the replacement of Truck 21, I would like to put this vehicle out to bid to see if a better price can be obtained. Therefore, I am hereby requesting permission to bid a 2003 one-ton 4x4 cab and chassis with a 325 horsepower diesel engine, 5-speed automatic transmission, heavy duty suspension, hydraulic dump body and 9-foot front reversing plow.

Trustee Wexler asked if B. Upson would be sending an invitation to bid to area dealers. B. Upson said yes as well as the legal requirement of placing a notice in the Village's official newspaper.

➔ Trustee DeToy moved, Trustee Whipple seconded, unanimously carried authorizing Superintendent Upson to go out to bid on a 1-ton diesel truck with plow as detailed.

2. Resolution authorizing relocation of Communications Center to 38 Market Street – B. Upson reviewed an estimate of the costs to relocate the Communications Center from the Police Station at 1 Clinton Street to Fire Headquarters at 38 Market Street.

Purchase dispatching console	from Monroe County	\$1.00
Electrical work	Marks	\$2,800.00
Move radios and ancillary equipment	Flower City	\$8,000.00
Concrete pad for antenna	DPW	\$500.00
Antenna ground loop		\$1,000.00
Contingency		<u>\$1,200.00</u>
		\$13,501.00

B. Upson recommended funding for this relocation be from 3rd Party Funds on-hand.

Trustee Whipple commented that at least the concept needs to be approved so we can get going on this. Trustee Wexler asked how long the relocation would take. B. Upson estimates 5 days. Trustee DeToy asked if they could move before getting the antenna up. B. Upson said they would have a temporary radio situation. Trustee Whipple suggested they look at the Emergency Operations Center in the basement of Fire Headquarters. That should work for the short term.

→ Trustee Whipple moved, Trustee Wexler seconded, unanimously carried to relocate the communications center from the Police Station at 1 Clinton Street to Fire Headquarters at 38 Market Street.

3. Resolution authorizing display of Sweeper, 10-wheel truck #12, sidewalk plow, & 6-wheel plow #4 at Seymour Library on 5/31 for "Truck Touch" day – Superintendent Upson shared that the Seymour Library is having a truck touch day for children on Saturday, May 31st from 10:30am to 1:30pm. He would like to take the equipment listed above. Trustee DeToy asked if there would be any personnel issues. B. Upson said he will ask for volunteers and someone will be with the equipment the entire time. If none of the crew volunteers, he, Rick or Harry will do it. It will not cost the Village any money. Trustee Knapp asked if proof of insurance needs to be provided. B. Upson said he does not believe so. Mayor Matela said she can double check with the insurance consultant.

→ Trustee Knapp moved, Trustee DeToy seconded, unanimously carried authorizing DPW Superintendent Upson to show the previously mentioned trucks at the Seymour Library Truck Touch Day on Saturday, May 31st.

B. POLICE / COMMUNICATIONS CENTER – Chief Daniel P. Varrenti

1. Swearing in of Sergeants Mark Cuzzupoli and Mark Philippy – Chief Varrenti shared that when he was interviewed a year and a half ago for the position of Police Chief, one of the questions asked was how he would provide a vision for the Brockport Police Department. He said someday he would step down as Chief and he planned to have enough qualified staff to choose from to succeed him. He said he "inherited" Sergeants Doug Ziegler and Adam Mesiti and has been privileged to work with them. He said he couldn't have selected better himself. He now has the privilege of promoting Mark Cuzzupoli and Mark Philippy to the position of Sergeant.

Mayor Matela administered the oath of office to Mark Cuzupoli and Mark Philippy, both recently upgraded to Sergeant while Chief Varrenti and members of their families and department looked on. All were congratulated.

2. Resolution authorizing display of a Police car at Seymour Library on 5/31 for "Truck Touch" day – Chief Varrenti shared that the Police Department has also been asked to have a police car at the event discussed earlier. One of the on-duty officers will bring the car over. If they are busy, Chief Varrenti said he would do so.

→ Trustee Knapp moved, Trustee DeToy seconded, unanimously carried authorizing Police Chief Varrenti to show a police vehicle at the Seymour Library Truck Touch Day on Saturday, May 31st.

3. General Order Manual Updates – Chief Varrenti reviewed the updates to the Police Department's General Orders Manual and presented a set to Clerk Morelli for insertion into the Village Office copy.
4. Buckle Up Program – Chief Varrenti said another seat belt detail was done today through the grant, at no cost to the Village. He was surprised to have 30 tickets written. Some people still are not buckling up.
5. Bus Drivers Awards Banquet – Chief Varrenti shared that he attended the 3rd annual bus drivers awards banquets. He presented two certificates to Brockport bus drivers. They carry precious cargo and should be appreciated for their work.
6. Request brief executive session re a personnel matter - Chief Varrenti asked for a brief

executive session at some point to discuss a personnel matter. Mayor Matela commented that a current litigation matter also needs to be discussed in executive session.

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Executive Session:

Mayor Matela declared a recess at 7:55pm and reconvened the meeting at 9:05pm.

⇒ Trustee Whipple moved, Trustee DeToy seconded, unanimously carried that the Board of Trustees of the Village of Brockport enter into an executive session to discuss personnel and legal matters.

I, Leslie A. Morelli, Clerk for the Board of Trustees of the Village of Brockport, do hereby certify that the Board met in an executive session and did discuss the matters as expressed in their motion, and I further certify that no formal action regarding public funds was taken thereon.

Leslie Ann Morelli, Village Clerk

→ Trustee DeToy moved, Trustee Wexler seconded, unanimously carried to accept the settlement agreement of former part-time paid Emergency Medical Technician Lisa J. McCaughey as presented in executive session.

C. BUILDING / ZONING / CODE ENFORCEMENT - Scott C. Zarnstorff

1. Monthly Report – S. Zarnstorff reviewed his April report and year-to-date figures. In April 8 applications were submitted of the 45 year-to-date with fees of \$210 of the \$3,400 year-to-date. Inspections in April were 50+ of the 245 year-to-date. He will be tabulating code enforcement trends from January to May. He shared that the Planning Board recently granted overall preliminary approval and final approval of Phase I for Remington Woods. They are in hopes that Havenwood Meadows Section III moves forward soon.
2. Approval of brochures: Decks and Pool Decks / Property Maintenance – S. Zarnstorff referred to the two brochures previously distributed to the Board for review. These should prove to be proactive, be good communications tools and may help in expediting code compliance. They are living documents, are on the computer, and can be changed as needed. They can even be put on the website. He hopes to do more, particularly now that there is a new building code.

Mayor Matela asked if they would be used along with doorknockers. S. Zarnstorff said yes. Trustee DeToy asked if they coincide with the Village Code. S. Zarnstorff said the zoning portion do, and the construction portions go along with the NYS Building Code. Trustee DeToy asked if the Village Code needs to be modified due to the new building code. S. Zarnstorff said he does not think so, but will double-check it. Trustee DeToy said he would gladly work with him on that.

Board agreed to table approval of the brochures until they had a better chance to review them.

John Lessord asked if he could ask S. Zarnstorff a related question. S. Zarnstorff said yes. J. Lessord asked if a Building Inspector could come onto private property without permission. For example, could he come onto his property to see a car along the canal? S. Zarnstorff said no, but the violation could be in plain sight or it can be seen from common lands.

3. Update on Village of Brockport v. Richard Miller – S. Zarnstorff reported that the case (contempt hearing) concluded today. The decision of Judge Cody was that R. Miller was found guilty of contempt. The 34 South Avenue property is not yet in compliance with the Judge's orders of the previous hearings. No certificate of occupancy was obtained by March 4, 2003. The approximately \$5,000 in fines were finally paid. Stipulations imposed today were that R. Miller must have a conditional certificate of occupancy in place by August 10, 2003 or be prepared to explain why not and possibly be sent to jail.

Mayor Matela asked who sets the conditions, the Judge or S. Zarnstorff. S. Zarnstorff said he did not say. Mayor Matela asked how often S. Zarnstorff issues a conditional certificate of occupancy. S. Zarnstorff said only a couple of times a year, and the property has to be in substantial compliance, with no safety issues and most of the work done.

S. Zarnstorff said this case has gone on quite a while with a tremendous amount of time, effort, energy, and expense involved – and there is still no certificate of occupancy and another 10-week extension has been given. He said he has no idea of the current condition of the house and people are still living there. In summary, S. Zarnstorff said he will respect the Court's decision, but is not happy with what transpired.

D. FIRE - Chief Gregory B. Wing - absent

1. Membership Adds/Drops/Transfers – Clerk Morelli asked the Board to consider approving the following adds: Christopher Perkszyk of Brockport to the Explorer Post and Eric Ault of

Brockport to Company #4 Fire.

→ Trustee Knapp moved, Trustee DeToy seconded, unanimously carried approving the previously mentioned adds.

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E. TREASURER - Scott D. Rightmyer

- 1. Budgetary Changes – Treasurer Rightmyer apologized for getting the information to the Board so late, but asked for approval on the provided budgetary changes totaling \$76,478.

→ Trustee Whipple moved, Trustee DeToy seconded, unanimously carried authorizing the budgetary changes per Treasurer Rightmyer’s request.

- 2. Tax Warrant – Treasurer Rightmyer asked that the Board authorize the Mayor to sign the 2003-2004 Tax Warrant.

→ Trustee DeToy moved, Trustee Knapp seconded, unanimously carried authorizing the Mayor to sign the 2003-2004 tax warrant.

F. CLERK - Leslie A. Morelli – No report.

G. ATTORNEY – Edward W. Riley / DEPUTY ATTORNEY – Frank A. Aloï - excused

- 1. Resolution on Retainer Agreement for Spalla v. Village of Brockport – Mayor Matela read the following resolution prepared by Village Attorney Riley.

RESOLUTION

RE: SPALLA AND ESTERIANY v. VILLAGE OF BROCKPORT:

WHEREAS, the Village of Brockport is a defendant in a law suit entitled “Anthony Spalla and Sasha Esteriany versus the Village of Brockport” and certain members of the Village of Brockport Police Department, the law suit arising out of a motor vehicle accident involving the plaintiffs that occurred on or about September 30, 1999; a law suit having been commenced against the Village by Plaintiff Spalla on or about January 31, 2000, and a companion law suit filed by Plaintiff Esteriany on or about December 1, 2000; and

WHEREAS, the Village of Brockport has been and continues to actively and successfully defend against the claims of the plaintiffs, a defense presently funded and provided by one of its two insurance carriers, namely Hanover Insurance Company which is the “Police Professional Liability” carrier” for the Village of Brockport; and

WHEREAS the Village of Brockport has additional insurance coverage in the form of multiple policies that are relevant to the litigation pending with another carrier, Selective Way Insurance Company; and that Selective Way Insurance Company has disclaimed coverage relative to certain of its policies with the Village such that its actions are negatively impacting the potential for a successful resolution of this matter; and

WHEREAS the resultant dispute between Hanover Insurance Company and Selective Way Insurance Company relative to the amount of applicable coverage and the responsibility for the allocation of costs of defending the Village of Brockport has placed the Village in a position of assuming undue risk and interfering with the defense in the pending litigation; and

WHEREAS, it is absolutely and unequivocally necessary for the Village, as the real party in interest in this matter, to have the dispute between its two carriers immediately resolved such that its interests are fully protected and advanced; it is hereby

RESOLVED, that the Village shall retain the services of the law firm of Harris Beach LLP, to take such steps necessary to protect and secure the interests of the Village of Brockport as it relates to the controversy between the two insurance carriers, including but not limited to the commencement of a declaratory judgment action in the Supreme Court of the State of New York of Monroe County for a determination of the applicability of certain of Selective Way Insurance Company’s policies to the pending litigation; whether any conduct of the Village’s insurance carriers is such that it constitutes bad faith; and such additional relief, including but not limited to, the recovery of the costs and expenses of the Village of Brockport in being forced to seek a legal determination in this matter; and further

RESOLVED that the Mayor of the Village of Brockport is hereby authorized to execute a retainer agreement with the law firm of Harris Beach LLP to engage its services accordingly.

→ Trustee Whipple moved, Trustee Wexler seconded, unanimously carried adopting the foregoing resolution and authorizing the Mayor to sign the retainer agreement.

H. ECONOMIC DEVELOPMENT – Coordinator R. Scott Winner - excused

1. Economic Development Course – Mayor Matela asked if the Board had an opportunity to review the materials regarding the Economic Development Course to be held June 23-27 at Union College in Schenectady. This is an accredited course that could be applied toward certification. It would help further his knowledge in doing his job for the Village.

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Trustee Knapp questioned the hours. Mayor Matela said it is a 40-hour course. Trustee Knapp questioned the cost. Mayor Matela said the total cost is \$1,190.71 for registration, room and board and gratuities. He will drive there. Trustee Wexler said he has a problem with the Village paying for his working towards an accreditation or certification. Mayor Matela said it's done with the Police Department, DPW, Building/Zoning Officer, etc. It only helps the Village.

→ Trustee DeToy moved, Trustee Whipple seconded, Trustee Wexler opposed, carried authorizing Scott Winner to attend the Economic Development Course.

SUPPORT BOARDS REPORTS:

- A. PLANNING BOARD – Chair R. Scott Winner - excused
- B. LIBRARY BOARD – President Sean Wilcox (absent)
- C. ZONING BOARD OF APPEALS - Chair Jennifer Skoog-Harvey (absent)

VILLAGE BOARD REPORTS:

- A. Vice Mayor Wexler – No report.
- B. Trustee Whipple
 1. Fire Truck – Trustee Whipple reminded the Board that last fall the Fire Department went out to bid on a new fire truck. All bids were rejected because they exceeded their cost hopes. The truck committee re-drew the specifications and provided copies to the Board today. Mayor Matela thanked the committee for their hard work and for the copies. She asked that all review them for the June meeting.
- C. Trustee Knapp – No report.
- D. Trustee DeToy – No report.
- E. Mayor Matela
 1. Passings – Mayor Matela announced that Scott Winner's mother-in-law passed away last weekend. Mayor Matela announced that Nat Lester, Jr. also passed away last weekend. The flags are at half-staff since Mr. Lester was a Monroe County Legislator, Town of Sweden Supervisor, and Village Attorney. His funeral is Thursday at 11am at Nativity Church.
 2. Parking Ticket Transition to Town of Sweden – use of Statewide Computers – Mayor Matela shared that she and Clerk Morelli met with Town of Sweden Supervisor Lester, Councilman Carges and Court Clerks Lemcke and Sweeting on May 13th. They will take over the collection of Village parking tickets as of June 1st since the Village does not jurisdiction to do so without its own court. However, the use of Statewide Computers (SWC) is considered a collection device and the Town Court is not obligated to utilize it or pay for it. If tickets do not get paid, they just sit in a drawer. Although municipalities are not legally bound to utilize a collection agency like SWC, it has been in the best interest of the Village to do so. The average cost of \$8,500 per year over the last three years has been worth it to gain an average revenue of \$60,000 per year over the last three years.

Mayor Matela said she and Clerk Morelli recommend that the Village continue to cover the expense of Statewide Computers. Otherwise, if delinquent notices are not sent out, the Village could see a significant decline in those revenues. They also recommend, and Attorney Riley has agreed, that he should continue as Village Attorney to represent the Village at the monthly parking appeal hearings.

Treasurer Rightmyer stated that it was assumed that the cost of SWC was going to be picked up by the Town; therefore, it was NOT included in the budget. Chief Varrenti asked if the revenue portion of parking tickets was included in the budget. Treasurer Rightmyer said yes. Mayor Matela said a budget adjustment would have to be made. Trustee Wexler said it is too much revenue to forego. Trustee Wexler said the Village should receive reports and keep track of the parking revenues.

→ Trustee Wexler moved, Trustee DeToy seconded, unanimously carried to transfer the Village parking ticket collection to the Town of Sweden Court as required by June 1st, utilize Statewide Computers, an expense to be covered by the Village of Brockport, and Village Attorney Riley at parking hearings.

3. Authorization to attend Erie Canal Convocation in Utica June 8-10 – Mayor Matela said she has been invited to present at this conference and is eligible for a reduced rate. Bill Andrews and Scott Winner are also interested in attending. It would cost \$767 for all 3 to attend. Trustee Whipple said he sees the need for Mayor Matela and Bill Andrews to attend, but not Scott Winner.

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→ Trustee DeToy moved, Trustee Whipple seconded, unanimously carried authorizing Mayor Matela and Bill Andrews to attend the Erie Canal Convocation in Utica June 8-10.

Treasurer Rightmyer will send in the appropriate paperwork and fees.

AUDIT:

- Trustee Knapp moved, Trustee DeToy seconded, unanimously carried that the bills be allowed and paid upon audit.

<u>Village</u>		
Date	Check #	Amount
5/19	167660-716	34,150.54
<u>Fire</u>		
5/19	167648-659	6,909.84
<u>Ambulance</u>		
5/19	167645-647	190.76
<u>Capital Projects</u>		
5/19	1572-79	148,162.49
	P. 35	93,800.00
	P. 49	11,684.10
	P. 27	17,685.43
	P. 44	13,906.30
	P. 22	11,086.66
<u>Third Party Billing</u>		
5/19	159-161	1,079.00

ADJOURNMENT:

- Trustee Knapp moved, Trustee Wexler seconded, unanimously carried that the meeting be adjourned at 9:45pm.

Leslie Ann Morelli, Village Clerk