

**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, September 3, 2002 at 7:30pm.**

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

**EXCUSED:** Mayor Josephine C. Matela, Building/Zoning Officer Scott C. Zarnstorff

**ALSO PRESENT:** Village Attorney Edward W. Riley, Fire Chief Gregory B. Wing, Planning Board Chair & Economic Development Coordinator R. Scott Winner, John Lessord, Scott Warthman, Joan Hamlin, Tricia White, Rodney Davis, Francisco Borrayo, Linda Borrayo, Norman GianCursio, Karen Overmyer, Fred Webster.

**CALL TO ORDER:** Vice Mayor Wexler called the meeting to order and led the Pledge to the Flag.

**REVIEW OF MEETING MINUTES:** Vice Mayor Wexler called for any additions or corrections to the minutes of the regular meeting held August 19, 2002.

➔ Trustee Knapp moved, Trustee Whipple seconded, unanimously carried that the minutes of the meeting held August 19, 2002, be approved as written.

**PUBLIC HEARINGS:** None

**PUBLIC INFORMATION MEETINGS:** None

**PUBLIC COMMENT** (1<sup>st</sup> opportunity):

1. Scott Warthman – Fire Department Historian – Monument Committee – Dedication Committee – thanked the Village Board, B. Upson and DPW, D. Varrenti and Police Department, Scott Winner, Scott Zarnstorff etc for all of their assistance with the monument and dedication. He said its success was far beyond his wildest dreams. The monument has become a focal point for the Village. They still have over 300 bricks left to sell. They are working to have the Fire Museum open more often. He said Brockport is the best Village and has the best Fire Department and Police Department around. The Board and Department Heads thanked S. Warthman for he and the committees work. The monument has become a highlight of the community.
2. Joan Hamlin of 50 Park Avenue asked if the Board could periodically update the public at meetings regarding pending litigation issues such as Zimmer, DeToy, Websters, Spalla, etc. She also asked if the Board would consider holding its semi-annual informal, public forum meetings. She said the monthly coffee with the Mayor opportunities are nice, but there should be an opportunity to meet with the entire board. J. Hamlin said she doesn't like having to read everything that happens in the Village in the local papers. Attorney Riley commented that one is not likely to get the most accurate information from the newspapers. He further stated that it is not his policy to discuss pending litigation. Trustee Wexler said there have been no conclusions to the pending litigation issues she mentioned.

**DEPARTMENT REPORTS:**

A. PUBLIC WORKS – Superintendent Bradley B. Upson

1. Authorize Mayor to sign a release for 18 Morgan Court – B. Upson explained that during preparations for sale of 18 Morgan Court it was discovered that the premises encroach 1.3 feet onto a storm sewer easement running to the Village of Brockport. He showed the encroachment on a drawing. At Village Attorney Riley's request, DPW staff reviewed the encroachment and determined that it will not adversely affect any operation or maintenance of the sewer. The buyer's attorney presented a proposed Release to the Village. B. Upson said he and Attorney Riley concur that signing this easement will not impair the Village's ability to maintain the system. Therefore, he requested the Board accept this release and authorize the Mayor to execute it.

⇒ Trustee Whipple moved, Trustee Knapp seconded, unanimously carried accepting this release for encroachment and authorizing the Mayor to execute it.

2. Authorization to extend contract with Larsen Engineers for long-term environmental monitoring of Landfill – B. Upson shared that pursuant to the Order on Consent B8-0375-91-06 issued by the New York State Department of Environmental Conservation, the Village must report twice a year on the effectiveness of the Brockport Landfill remediation. Monitoring, sampling, and analytical procedures are contained in the 2001 *Brockport Landfill – Site No. 8-28-038 Post Closure Monitoring and Maintenance Operations Manual*. Larsen Engineers has been involved in the landfill closure since the beginning and has been doing the long-term environmental monitoring for the Village since it started. They have submitted a proposal for, and a request to renew the contract for professional services for an additional year. Their proposal is to do the

required monitoring, sampling, analysis and report preparation for a fee not-to-exceed \$25,000. Based on the results of previous testing, it may be possible to reduce the scope of sampling and reduce the cost of this work. Included in this proposal are costs related to the necessary discussions with the relevant parties to effect such changes. Therefore, he requested the Board accept this proposal and authorize the Mayor to execute it.

Trustee Knapp commented that Chatfield Engineers was working on getting reimbursed from the PRP's. B. Upton said he still is. Treasurer Rightmyer said the reimbursement is supposed to be fifty percent. Therefore, the Village's cost of the \$25,000 would really be \$12,500.

⇒ Trustee Whipple moved, Trustee Knapp seconded, unanimously carried accepting the proposal of Larsen Engineers to do the required monitoring, sampling, analysis and report preparation of long-term environmental monitoring of the landfill for one year at a cost not-to-exceed \$25,000.

3. File undertaking with NYSDOT re: work permits on state highways – B. Upton shared that some of the utilities that the DPW maintains are located in right-of-ways owned by the state of New York. Each time we are required to work within these ROW's, a Highway Work Permit has to be obtained from the NYSDOT. The DOT's permit application process includes posting a Certificate of Insurance and a performance bond of a minimum of \$2,000. Getting the insurance certificate and posting the bond requires additional efforts, paperwork, and cost on the part of the department staff, Village Clerk, and our insurance carriers. To avoid these extra costs, the NYSDOT will accept an Undertaking between the Village and the State in lieu of the insurance certificate and the bond. By having such an Undertaking on file it will not be necessary to obtain a Certificate of Insurance, nor maintain and pay for a bond each time we apply for a DOT permit. Filing an Undertaking will expedite the issuance of permits, save paperwork and money for the Village. Therefore, he requested the Board adopt a resolution of Undertaking to, and with the NYSDOT, and authorize the Mayor to execute it.

Attorney Riley said there is no adverse legal consequence.

⇒ Trustee Knapp moved, Trustee DeToy seconded, unanimously carried adopting the following resolution of Undertaking to and with the New York State Department of Transportation.

**RESOLUTION OF UNDERTAKING TO, AND WITH  
NEW YORK STATE DEPARTMENT OF TRANSPORTATION  
IN CONNECTION WITH HIGHWAY WORK PERMITS**

WHEREAS, the Village of Brockport has certain facilities located within the right-of-way of certain State highways; and

WHEREAS, from time to time the Village receives permits from the NYS DOT to temporarily obstruct, install, construct, maintain, operate or replace such facilities within the bounds of a State right-of-way pursuant to Sections 52, 103, 203, 249 and/or 250 of the *New York State Highway Law*; and

WHEREAS, the DOT requires that the Village file insurance certificates (Perm 17) and performance bonds (Perm 44e) for each permit to secure the faithful performance with terms and conditions of such permits and also to indemnify the State of New York and others with respect to all operations under such permits; and

WHEREAS, having to obtain insurance certificates and bonds for each permit requires additional efforts and paperwork by staff and our insurance carriers; and

WHEREAS, the DOT will accept an Undertaking in lieu of said insurance certificates and bonds, thus eliminating the need for the additional efforts and paperwork;

NOW, THEREFORE BE IT RESOLVED that the Village of Brockport hereby undertakes, to and with New York State and the New York State Department of Transportation, that:

1. The Village of Brockport (Village) will well, truly and faithfully comply with and perform all the terms and conditions of each such permit on its part to be kept and performed, and abide by and comply with all such conditions, rules and regulations as may be, from time to time, promulgated by the Commissioner of Transportation of the State of New York (Commissioner), according to the true intent and meaning of such permits, rules and regulations.
2. Brockport will, at its own expense, promptly complete the work allowed under each permit and within a reasonable time restore State property damaged by its work to substantially the same or equivalent condition as existed before such work begun; and in the event that the Village of Brockport fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Village, may restore the property to substantially the same or equivalent condition as existed before the Village began

the work and require the Village to reimburse the State for any and all costs incurred by the State in such restoration.

3. The Village of Brockport will indemnify, hold harmless and defend and protect the State of New York, the Commissioner and the Department, their officials, officers, agents and employees against and pay any and all amounts, damages and costs and judgments which may or shall be recovered against said State, or its officers, or agents, or which such State may be called upon to pay to any person or corporation by reason of damages arising or growing out of operations pursuant to said permits or the manner of doing the same, or the neglect of said Village, or its agents or servants, or the improper performance pursuant to the conditions of said permits by the Village, its agents or servants.
  4. The Village of Brockport which is self-insured, will pay any and all damages, costs, including but not limited to attorney's fees, and judgments recovered against the State, the Commissioner of Transportation, the Department of Transportation and their officials, officers and employees in connection with work allowed by a permit or from use of a permit by the Village of Brockport or by any person acting by, through or for the Village, including omission and supervisory acts of any of the entities or persons named above.
  5. It is understood that this undertaking is one of indemnity only and is not to be construed as imposing on the Village of Brockport an obligation to pay claims for which there would not otherwise be a remedy in law against the State of New York.
  6. Any payments required by the foregoing will be guaranteed by the full faith and credit of the Village of Brockport, or its districts, as applicable, and will be paid out of current budgeted funds, or if insufficient, from its liability and casualty reserve fund or from the proceeds of bonds which current laws permit the Village to issue to pay claims against it.
- B. POLICE / COMMUNICATIONS CENTER – Chief Daniel P. Varrenti**
1. Update on rape investigation – Chief Varrenti commended his Department for a successful investigation of the rape of a female student in her home on Perry Street. A preliminary hearing has determined sufficient probable cause and it is now at the Grand Jury for consideration of indictment. Trustee Wexler commented that SUNY University Police Chief Kehoe was elated about the quick arrest. Chief Varrenti reported a violent assault last weekend in which an arrest was made.
  2. Formation of Neighborhood Watch / Neighborhood Enforcement Teams – Chief Varrenti said he has been invited to a neighborhood picnic and has been approached about exploring neighborhood watch programs. He commends residents committed to improving their community.
- C. BUILDING / ZONING / CODE ENFORCEMENT - Scott C. Zarnstorff - excused**
- D. FIRE - Chief Gregory B. Wing**
1. Membership Adds/Drops/Transfers – None, but one of the largest recruit classes (11) is about to start.
  2. Call Load – Year to Date Fire Calls: 768 Year to Date Ambulance Calls: 1041 Chief Wing commended his Department for their tireless dedication. He reported a small arson fire at the SUNY Seymour Union by two teenagers. He also reported numerous motor vehicle accidents with people trapped this year.
  3. Budget – Chief Wing said he is working with Treasurer Rightmyer on budget numbers.
- E. TREASURER - Scott D. Rightmyer – No report.**
- F. CLERK - Leslie A. Morelli**
1. Employee Directory – Clerk Morelli distributed the updated paid and volunteer employee directory. She asked that any necessary changes be reported to her.
- G. ATTORNEY – Edward W. Riley / DEPUTY ATTORNEY – Frank A. Aloï**
1. Tax Assessment Cases – Sheryle Properties and Niagara Mohawk – Attorney Riley said it is his and Attorney Aloï's recommendation, consistent with the presentation made by Town of Sweden Attorney Bell at the August 12<sup>th</sup> workshop that the Board approved the proposed settlements. Sweden intends to accept and consent to the proposed settlements, and the Courts are anxious to have a final resolution which either requires the Village's consent and participation in the settlements, or advice to the court that it intends to litigate the issues. Attorney Riley distributed the proposed settlement assessments which would remain in effect for the years 2002, 2003, 2004, 2005, and 2006. After 2006, the properties can be re-assessed depending on market values.

⇒ Trustee Whipple moved, Trustee Knapp seconded, unanimously carried the following resolution of settlement of the pending tax certiorari cases in accordance with and consistent with the Town of Sweden settlement:

It is hereby resolved that the Mayor of the Village of Brockport is authorized to enter into a stipulation of settlement concerning pending litigation in the Monroe County Supreme Court entitled "Niagara Mohawk Power Corporation VS. the Village of Brockport", consistent with the Town of Sweden's stipulation of settlement with said plaintiff, and the assessed settlement agreement, including the revised assessments relative to the relevant parcels located in the Village of Brockport as set forth in that stipulation and to execute a discontinuance of action upon said stipulation of settlement being entered into.

⇒ Trustee DeToy moved, Trustee Whipple seconded, unanimously carried the following resolution of settlement of the pending tax certiorari cases in accordance with and consistent with the Town of Sweden settlement:

It is hereby resolved that the Mayor of the Village of Brockport is authorized to enter into a stipulation of settlement concerning pending litigation in the Monroe County Supreme Court entitled "Sherlyle Properties Company VS. the Village of Brockport, Index No. 2002-4852" consistent with the Town of Sweden's stipulation of settlement with said plaintiff, and the assessed settlement agreement, including the revised assessments relative to the relevant parcels located in the Village of Brockport as set forth in that stipulation and the execute a discontinuance of action upon said stipulation of settlement being entered into.

**H. ECONOMIC DEVELOPMENT – Coordinator R. Scott Winner**

1. Updates – S. Winner shared that he has been contacted by developers for parcels Canal side for town homes, condos, senior housing, and a motel. He's also been in contact with a company who conducts railroad excursions from Lockport to Medina. They wish to expand to Brockport in October and November for fall foliage rail excursions. They would target senior groups and give passengers a window of opportunity for 50 to 300 passengers per day to depart the train and shop and eat at downtown Brockport merchants. Long term, they are looking for a base of operations. Therefore, he is helping them look for possible sites for boarding and disembarking the train. He is also working with some downtown merchants on strategic planning.

**SUPPORT BOARDS REPORTS:**

**A. PLANNING BOARD – Chair R. Scott Winner**

1. Updates – S. Winner shared that approvals were recently granted on several applications. Agrilink will expand its parking by 23 spaces over the remediated site due to their expanding workforce. Jimmy Z's received approval for a student and family focused, no alcohol, counter service restaurant in the space formerly known as Lift Bridge Kids. They will be spending high five figures developing the space. They will have a wide-ranging menu and decorate with pop culture and Brockport Central and SUNY Brockport memorabilia. John Mendez received approval on his revised plans for a canal side restaurant with docking facilities and electric and water hook ups for boaters. The Canal Corporation and State Liquor Authority still need to supply approvals. He estimates this to be a quarter million dollar investment.

The remaining Farash property is still being reviewed for consideration of subdivision and site plan approval for 230 single-family homes and 6 commercial lots. They have renamed the development Remington Woods. Champion Moving and Storage of Gates is looking to relocate to 100 Owens Road, formerly Just Toys – Celt Specialties. S. Winner suggested they contact Tri-Star Logistics, formerly KB Transport, to outsource fueling and heavy maintenance of trucks rather than duplicate those functions. They have a ZBA public hearing September 12<sup>th</sup> for consideration of a use variance to allow warehousing in Limited Industrial zoning. A proposal for Flash's restaurant and tavern is also before the Planning Board. This would take over the location formerly known as Angus O'Brien's.

**B. LIBRARY BOARD – President Leslie Zink (absent)**

**C. ZONING BOARD OF APPEALS - Chair Richard L. Aldrich (absent)**

- D. EARTHWORKS ENVIRONMENTAL – Consultant Ken Pike – Trustee Wexler asked K. Pike to update everyone on the contamination issue. K. Pike shared that DEC's Pete Hoffmeyer finished the storm sewer cleaning on site and videotaped it. They also finished removal of the soils close to the railroad tracks and will backfill shortly. The manhole cover on State Street was replaced and the storm sewers on State Street were cleaned to the west corner of Oxford Street. They flush then run the video to assess it and he and B. Upson review it for the conditions of the piping. He saw them cutting pavement to replace the old stone culvert with high-density pipe. They need to clean across Oxford Street then under the Senior Center north.**

**VILLAGE BOARD REPORTS:**

- A. Trustee Whipple
  - 1. NYS Emergency Management Pre-Disaster Mitigation Plan – Trustee Whipple shared that he and DPW Superintendent Upson attended this County-wide meeting. There is grant money available to identify potential disasters. A County plan will be put together with a detailed addendum for each municipality.
  
- B. Trustee Knapp
  - 1. Museum Committee – Trustee Knapp shared that the museum committee met last on August 28<sup>th</sup> and are moving forward in gathering information on the scope of the project to get the museum chartered and with options of display location. The Brockport collection is quite significant, built on over 100 years of history.
  
  - 2. Passing of Dr. Henry Johangten – Trustee Knapp commented on the passing of Dr. Henry Johangten, who volunteered many years of service with the Village’s Zoning Board of Appeals and was a well-known member of the community.
  
- C. Trustee DeToy – No report.
  
- D. Trustee / Vice Mayor Wexler
  - 1. Adopt proclamation for School Board Recognition Week 10/28 – 11/1 –

⇒ Trustee Wexler moved, Trustee Whipple seconded, unanimously carried adopting the following proclamation.

PROCLAMATION

WHEREAS, the citizens of the Village of Brockport and the State of New York embrace the opportunity to support the observance of School Board Recognition Week of October 28-November 1; and

WHEREAS, the members of the School Board of Brockport Central School District are in invaluable resource as local decision makers by responding to the needs of their communities and serving the interests of our youth and preparing them for the future; and

WHEREAS; as early as the 1790’s the need to establish School Boards and empower their members to advocate for children and youth to provide and continue to improve educational opportunities and quality of life for our youth; and

WHEREAS; it is fitting and appropriate that the citizens of this community recognize the positive impact this has on the lives of all of us;

NOW, THEREFORE, I, Josephine C. Matela, Mayor of the Village of Brockport do hereby urge all citizens to join with the Village Board of Trustees in this salute to the Brockport Central School District Board of Education giving due consideration to the important role they play to education in our expanding economy and cultural development of this community;

IN WITNESS WHEREOF, I do hereby set my hand, and cause the Corporate Seal of the Village of Brockport to be affixed this 6<sup>th</sup> day of September, in the year 2002.

Josephine C. Matela, Mayor  
Village of Brockport

- 2. September 11<sup>th</sup> Ceremonies – Trustee Wexler shared that buses will be running from 11am to 3pm to the monument memorial at the five corners. There will be a 7pm service at the Newman Center.
  
- 3. Committee to study Dispatch Issue – Trustee Wexler commented that at the July 15<sup>th</sup> Village Board meeting the Mayor convened a 9-member committee to be chaired by Trustee Whipple to study the issue of local dispatch versus 911. Fifty days have gone by, and not one meeting has been held. He said he plans on making a motion at the second meeting in October. He feels people are trying to do the two-step on this. There could be a proposal that affects the Sweden and Clarkson fire budgets. Trustee Whipple responded that the Mayor had asked him in private to serve on and chair the committee and he said no. Then at the public meeting she asked him and he reluctantly said yes. It was discussed at the last Board workshop that it has been a very busy summer and that the first meeting would be convened in September. Trustee Whipple said this is a business driven decision that needs a cost/benefit analysis. Any motion made prior to all information being in will be based on emotion, not fact. There is money in the budget to run the dispatch operation for the entire year.

- 4. Recent accident – Trustee Wexler shared that last Saturday a telephone pole fell in the road at Oxford Street and a car hit it. He commended the Police Department’s handling of it and staying until Niagara Mohawk arrived.

E. Mayor Matela - excused

**PUBLIC COMMENT** (2<sup>nd</sup> opportunity): None

**AUDIT:**

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

Village

Date	Check #	Amount
9/3	166197-230	15,200.73
7/30	166015	227.52
8/27	166192	951.62
8/28	166231-232	5249.86
9/3	166237-238	289.20

Fire

8/27	166191	343.03
8/28	166193-196	334.47
9/3	166233-234	5348.87
9/3	166235	54.42

Ambulance

8/27	166190	55.49
9/3	166236	20.00

Capital Projects

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Third Party Billing

9/3	83	525.00
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**ADJOURNMENT:**

- ➔ Trustee Whipple moved, Trustee Knapp seconded, unanimously carried that the meeting be adjourned at 8:44pm.

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Leslie Ann Morelli, Village Clerk