

**Regular meeting of the Board of Trustees of the Village of Brockport was held in the Village Hall Conference Room 49 State Street Brockport, New York, May 8, 2012 at 7:00pm.**

**PRESENT:** Mayor M. Connie Castañeda, Trustee Margaret B. Blackman, Trustee Kent R. Blair Trustee Carol L. Hannan, Trustee Scott W. Hunsinger, Clerk Leslie A. Morelli, Treasurer Daniel P. Hendricks

**ALSO PRESENT:** Pam Ketchum, Joan Hamlin, John Cohen, Linda Ketchum, Bill Andrews, Sriram Bakshi, Kevin McCarthy, Kristina Gabalski, Harry Snyder, Fred Webster, Norm Giancursio, Hanny Heyen, Ann Draper, Tiffany Syck, Sue Berlin

**CALL TO ORDER / PLEDGE:** Mayor Castañeda called the meeting to order and led the Pledge of Allegiance.

**MOMENT OF SILENCE:** to honor those that serve our Country, enforce our laws, & respond to emergencies

**MISSION STATEMENT:** "To provide a high quality of life for all residents, exercising fiscal responsibility and preserving Brockport's unique heritage and historic character."

**PUBLIC COMMENT:**

- Sriram Bakshi of Evergreen Road – read the following prepared statement into the record:

I wish to bring to the attention of the Brockport Village Board my letter published in the Suburban News, dated 12 December 2010. Its title was: "Brockport's Five Lack Coordination." I had hoped that as the time goes by things will get better. But unfortunately, I am utterly dismayed, appalled, and disappointed. The last Board meeting was an example of mistrust and lack of coordinated efforts to solve Brockport's inherent problems. We, the residents, implore the Mayor to use judicious leadership and bring unity and prosperity to Brockport. Thank you.

The residents of Brockport have voted not to dissolve the Village with the great expectation that the Village Board will wake up from the slumber and initiate concrete plans to bring financial stability to the Village. Mayor Castañeda pointed out that the Village is facing a dire financial crisis: "the Village had dug into a deep hole." She also warned that "if the Village continues down the current path... the hole will become a chasm we cannot escape." (Suburban News and Hamlin-Clarkson Herald, November 7, 2010). This is really scary. In contrast to this pessimistic view, the three trustees painted a rosy picture: "It is the thought of the majority of the board that progress is being made to get us through these hard times." (Suburban News and Hamlin-Clarkson Herald, November 14, 2010). Nearly five months have passed (since the vote) and we don't see the indication of any progress.

When I attended the Village meeting on November 14, 2010, I felt a tension among the Trustees; they were bickering and attacking personally during the meeting. How can the Board accomplish anything when there is no unity among the Trustees? The Trustees locked in their brief cases the sense of commitment and urgency of solving the problems with more responsibility. Since the New Year is coming soon, the members should make a New Year promise: Behave like mature adults and work together or let others take their place. There is no alternative.

- Linda Ketchum of Erie Street – read the following prepared statement into the record:

I would like to address recent comments in the news outlets. When I make comments, I am speaking as a taxpayer. I am not a special interest group. I belong to a group of concerned citizens, but I decide what I want to say. I don't read statements prepared for me. As someone who aligns themselves with those that want the village dissolved, the mayor has a severe conflict of interest and is not serving the majority of taxpayers.

Two people made a complaint to the police department about improper living conditions. By duty of law, there must be an investigation. The DA determines if an arrest can be made. The law is the law. There is nothing else going on here. The result will take time, but the mayor can do the right thing and step down now.

- John Cohen of Utica Street - read the following prepared statement into the record:

Ladies and Gentlemen of the board:

I was writing my first draft for my speech tonight, but I wound up throwing that one away. It was angry and passionate, and I don't want to feel that way about my village anymore. Lord knows, there are reasons to be angry. From the mayor's half truths and deceptions in her Suburban article to the idea that the board's changing the agenda without telling the mayor isn't born of the mayor's own tendency towards secretiveness in office... it gets me worked up all over again.

But it's not why I'm speaking out. Last meeting, I said I had no axe to grind and I saw one of the women in the audience laugh and roll her eyes. And maybe she has a point. Maybe I do have an axe to grind.

But I didn't. If you had asked me in February - heck, to the people who DID ask me in February - about the mayor's term in office, I would say I didn't like it, but the time to deal with it was the next opportunity for an election. Whatever one may think about the percentage the mayor was voted in to office with, the fact remains the system worked as intended and she won. If you want to change the system, change the system - make Brockport an Instant Runoff Vote community, or whatever - but the mayor won, and we'd just have to deal with it.

You'll notice I wasn't speaking at village meetings then. What changed was that it's no longer that the mayor has unpleasant policies; it's that the mayor has had charges brought against her that are a violation of her office.

Some things are so simple. People debate morality of actions all day long and there are differences of opinion and there are gray areas. But come on. Violating an oath of office is wrong on every scale of morality free people have ever conceived of, and for so crass a motive as money even more so.

I believe the mayor committed a crime. I'm pretty sure she knows it, too, and I'm pretty sure that most of the people here know it. But in the end, it doesn't matter if she did it, what matters is, what is the right thing to do?

If an officer in the police faced these charges, the mayor would be the first to push for that officer's suspension the moment they were charged, not pending the outcome of a trial. And she'd be right to do so. She'd be wondering how the Chief let this happen, and she'd be right to do so. But it wasn't a police officer; it was a village office holder. I guess the thought is that such a person is held to a different standard.

I said this wasn't about my anger, not this time. It's a little bit about my sadness, and a little bit about hope. I'm pretty sure everyone here knows why I'm sad about this. I might get angry about the situation again, but really, what I want to hold on to is hope. My hope is that the mayor will see that the right thing to do is resign. I doubt, but I hope.

Thank you.

- Pam Ketchum of Park Avenue - read the following prepared statement into the record:

Connie's Conflict of interest regarding Code Enforcement - Or - maybe it should be Connie's Conflicting Code of Ethics. Is it legal to be unethical?

Information received from the Brockport Code Enforcement Office indicates that 59 landlords who own a total of 133 village properties have not registered their properties and paid the \$50 registration fee. The amount owed to the Brockport taxpayers is \$6,650.

Some would argue that is a small amount of money. As a taxpayer, that amount is important to me. Our mayor has made it a point to argue about every penny that is spent on holiday lights, watering hanging flower baskets as well as other issues. Code enforcement addresses safety, quality of living and protection of real estate investment for village residents.

I have paid my rental registration fees and registered my 5 rental properties. Why do some landlords feel they are above the law and don't have to follow the rules? This carries over to the issue of why the mayor was arrested. Excerpts from the Voluntary Statement of Fact presented to the police with regard to the arrests of March 9, 2012 include such statements as:

"Sometime in March of 2011 Connie approached me and my cousin Ron as we were coming home and said that the lady from the bed and breakfast across the street had told her that we were having a lot of people coming and going from our apartment. .... Connie then said we had to be discrete about who comes in and out because there is a limit as to how many people can live here and I only rent it out to you two. Sometime after this and while still in the month of March Connie also told me that if the police or anyone came to the house to not let them in and that if they asked who I or my cousin, Ron, were to say we were cousins of Connie's and that we were just visiting her."

Some landlords think they can operate a secret business under the radar. Or, maybe this is a blatant "screw you taxpayers", we can do whatever we want and if you cross us, we will sue you and teach you a lesson - bully boy landlord intimidation at its best.

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Certainly, we have seen the village master plan developed and orchestrated by outlaw landlords who have taken zoning into their own hands and converted, on the sly, houses and whole neighborhoods into rental slums. Look at College Street where 30 years ago there were 5 rentals and 13 owner-occupied. Now, it is just the reverse, and the lovely residence at 40 College St. sits in limbo waiting to find a family. It is easy to believe in the house's fine historic architectural details but it is trickier to have confidence in the location, the rental abyss.

I recently heard a rumor that, allegedly, a special interest group, the Sweden Landlords Association, has communicated with the village suggesting that they are refusing to pay the registration fee. Perhaps, the "altruistic and civic minded" – NOT - landlords don't believe that there is benefit to registering a rental property - at least no benefit to them. There would be a benefit to everyone else involved if the registration allows contact information for the landlord/manager, tenants and emergency providers. And the fee helps to offset the cost of running the code enforcement office which works to maintain consistent quality not subsistent squalor. But often times people don't operate for the greater good and don't feel compelled unless there is a carrot or a big stick. Forget about doing the right thing as a matter of conscience.

I wonder if Connie will find herself entering an executive session to discuss these issues. Because of her arrest and her involvement with rental property, I wonder if Connie will ask herself, "is this a conflict of interest?" It is a matter of conscience and ethics for Connie. And for all of us, including the mayor, it is a matter of the law and how the law can provide for the safe and uniform protection for all – not just landlords.

It is of major importance to vote YES for the referendum and allow law enforcement to oversee code enforcement. Otherwise, we will continue the Wild West good ole boy atmosphere and attitude that has prevailed in our village for the past 50 years.

Life in Brockport - the rule followers always scrambling to catch up with the rule breakers who hope to make money off of or at the expense of unsuspecting chumps like me.

Remember: Code Enforcement is Law Enforcement – Vote YES on the referendum

- Marcy Stickles of Erie Street – Clerk Morelli read the following prepared statement into the record:

**WHY PEOPLE SHOULD VOTE 'YES' ON THE REFERENDUM, RE: CODE ENFORCEMENT**  
A little history on the reasons that I believe the Village of Brockport is where it is, at this point in time, follows. In the late 1960's and into the 1970's, the College at Brockport grew by leaps and bounds (under the leadership of Pres. Albert W. Brown). Building after building went up, in rapid succession. Soon, enrollments increased to match the new and improved programs and facilities. However, now there were not enough dorms on campus to accommodate the additional students. Before we knew it, people in the village and surrounding areas saw an opportunity – to buy up houses in the village and rent out rooms to students. Some landlords were responsible people and took care of their properties and set down rules for their tenants. Others became slum landlords and packed their rental properties with way too many students. They focused on becoming wealthy without putting much money back into the upkeep of their properties, nor did they feel any responsibility for overseeing these properties (setting up rules for their tenants). I have heard their sentiments expressed (at Village Board meetings), that it is not up to them to supervise their tenants, it is up to the Village Police Department. They obviously do not give a hoot about the neighbors who live next to, across from, and behind their dilapidated properties, nor their quality of life. They have washed their hands of any responsibility regarding their tenants' behavior.

Another aspect of this is that, along with the rapid growth of the college, the need for additional codes and beefed up code enforcement was sorely needed. In time, the codes have been updated, but 'in time' are the key words here. By the time the village caught up with the college, much damage and destruction had already been done to lots of beautiful houses in the village. From then on out, the problem became more one of enforcing the code (actually, the lack thereof) and trying to bring these slum houses back up to code.

The current (and the most recent past) mayor of this village have not done this dilemma any favors. The code enforcement office was diminished, not expanded, and the one code enforcement officer has been at the mercy of politics. The current mayor wanted to dissolve the village; she doesn't want code enforcement to interfere with her cronies, the slumlords. I have heard, that during most of her time in office, she has not even allowed the one lone code enforcement officer to do his job. She wouldn't let him enforce the codes. Code enforcement should not be a political issue and the code enforcement officer should not be the puppet of whomever the mayor happens to be at any given time. Moving code enforcement to and under the supervision of the police department is the only smart thing to do. This way, codes can actually be

allowed to be enforced and everything possible can be done to reclaim this village and make it the beautiful Victorian Village by the Canal that it was and still should be. The wonderful beautification of Main Street in Brockport has been an awesome start and is still ongoing. Let's make the same thing happen to the  
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remainder of the village. Things don't have to continue on in a downward spiral, as they have over the past 30 years. We can make rejuvenation of our village happen. Please get out and vote 'yes' to the Referendum on Code Enforcement.

Thank you.

**CONSENSUS ITEMS:**

• **APPROVAL OF MINUTES:**

→ Trustee Hunsinger moved, Trustee Blair seconded, carried 5/0 that the minutes of the 4/24 meeting be approved as written.

• **APPROVAL OF BILLS TO BE PAID**

→ Trustee Blackman moved, Trustee Hannan seconded, carried 5/0 that the bills be allowed and paid upon audit.

A/P Clearing Account

	<u>Abstract Date</u>	<u>Amount</u>
FUND (A): <u>General</u>	5/4/12	\$67,325.75
FUND (F): <u>Water</u>	5/4/12	\$9,522.51
FUND (H): <u>Capital</u>	5/4/12	\$166.71
FUND (T): <u>(Trust &amp; Agency)</u>	-	-
		\$77,014.97 grand total

**CLERK & TREASURER REPORTS:**

- Clerk – Leslie Ann Morelli
- Sidewalk Café Permit – Java Junction - 56 Main Street - Clerk Morelli referred to the application – a repeat of past years.

→ Trustee Hannan moved, Trustee Blackman seconded, carried 5/0 to approve the application for a sidewalk café permit for the 2012 season – limited to 2 tables and 8 chairs (plus umbrellas and trash receptacle) daily from 6am to 11pm.

- Sidewalk Café Permit – Burrito Fresco – 77 Main Street - Clerk Morelli shared that as of June 1<sup>st</sup>, Mythos Café will become Burrito Fresco. A sidewalk café permit application was submitted after the agenda deadline which can be entertained this evening should the Board wish or placed on the next agenda.

Trustee Hunsinger said he has no problem with acting on it this evening. He suggested that in the future first time applications be required to attend the meeting.

Trustee Hannan said she also has no problem with acting on it this evening. She commented that the approval letter should indicate that the restaurant is to provide its own trash receptacle. She said one of the two recent permits approved is pulling a Village trash receptacle near their café. Clerk Morelli said she would follow up with them.

→ Trustee Blair moved, Trustee Blackman seconded, carried 5/0 to approve the application for a sidewalk café permit for the 2012 season – limited to 2 tables and 8 chairs (plus umbrellas and trash receptacle) daily from 6am to 11pm.

- Resolution correcting 6/1/12-5/31/13 Tax Rate as \$12.09 not \$12.10/1,000 – Clerk Morelli shared that Monroe County discovered a rounding error which makes our tax rate \$12.09 not \$12.10 per 1,000.

→ Trustee Hunsinger moved, Trustee Blair seconded, carried 5/0 to adopt a correcting resolution as follows:

RESOLVED, that the Brockport Village Board adopts the 06/01/12 – 05/31/13 General Fund budget in the amount of \$4,647,690, the Water Fund budget in the amount of \$913,580, and the Sewer Fund budget in the amount of \$138,000 and that there be levied and assessed against the real property of the Village of Brockport the following sums for village government and other charges for the fiscal year 2012-2013 with a tax rate of **\$12.09** per thousand of assessed valuation levying the total taxes and

other charges extended and levied against each parcel of real property, shown on the roll prepared and verified by the Town Assessor for the 2012-2013 fiscal year:

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General Fund:		
Total Taxes for Current Budget		\$2,457,326
For Relieved Property Maintenance Charges	\$300.86	
Water Fund:		
For Relieved Water Rents & Charges		0
Sewer Fund:		
For Relieved Sewer Rents & Charges		0
<b>TOTAL REAL PROPERTY TAXES</b>		
<b>AND OTHER CHARGES ON ROLLS</b>	<b>=</b>	<b>\$2,457,626.86</b>

A vote was taken and recorded as follows:

Margaret B. Blackman	Trustee	yes
Kent R. Blair	Trustee	yes
Carol L. Hannan	Trustee	yes
Scott W. Hunsinger	Trustee	yes
Maria C. Castañeda	Mayor	yes

This resolution was thereby declared duly adopted 5/0.

- Workers Comp Program update - Clerk Morelli shared that the Upstate New York

Municipal Workers Compensation Plan (UNYMWCP) has experienced another successful year. As a result, for the fiscal year ending 12/31/11, the Board of Directors declared a 60% dividend return. The Village of Brockport’s surplus dividend check was in the amount of \$84,975. Clerk Morelli recommended that some of the surplus be placed into the Workers Comp reserve that was established a couple of years ago. She said in working with the rep, they gathered the loss history and estimated cost associated with the Fire Department for the past several years. This gives an idea of how they were impacting the Village’s contributions and therefore the surplus/deficit calculations. Historically they accounted for a little less than half of the annual contribution (premium), but far less than half the claims. This means from a surplus/deficit standpoint, while the Village has had good experience on their own, it’s been made better because of the inclusion of the Fire Department. Once we no longer cover the Fire Department, the surplus could shrink considerably. In reviewing the Village’s contribution for 2012, they based our amount due on the Fire Department being split out as a Fire District by 6/1. Since that’s looking like 7/1, they’ll need one more month of contribution for the exposure. A separate bill will be coming. The Fire District is looking to join this Workers Comp program. Clerk Morelli said she met with the rep and Fire District Treasurer and a Commissioner on this. The rep recommends the Village keep the Fire Department claims (in case they develop into anything – no likely because none of the claims are considered “open”) and not share the surplus with them. This makes a clean break when they become a Fire District – starting them fresh with the Workers Comp program as their own entity.

Board asked Clerk Morelli to place this on the June work session agenda.

- **PERSONNEL ITEMS:**

- Appointments:
  - Fire Department – membership drops/adds

→ Trustee Hannan moved, Trustee Blackman seconded, carried 5/0 to approve the following membership changes: Robin Waller, Al Hoy, Sherry Keck to Fire Police, Kyle Boyst and James Weber exempt certificates, James Weber drop.

- Welcome Center Greeters – membership drops/adds

→ Trustee Blackman moved, Trustee Hannan seconded, carried 5/0 to approve the following membership changes: Dan Burns, Bob Jones, Ward Staubitz add as Greeters; Gary Skoog add as Welcome Center Management Committee member.

- Re-Appointments:
  - Farmers Market Managers for 2012 season -

→ Trustee Blackman moved, Trustee Hannan seconded, carried 5/0 to reappoint Ruthann Tryka and Charlene Veltz as Co-Farmers Market Managers for the 2012 season.

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**NEW BUSINESS:**

- Authorize advertising for 4 seasonal laborers for DPW –

→ Trustee Hunsinger moved, Trustee Blair seconded to authorize advertising for 4 seasonal laborers for DPW as follows:

Village of Brockport DPW  
Seasonal Employment Opportunity  
SUMMER EMPLOYMENT  
The Village of Brockport Department of Public Works  
is accepting applications for four (4) Seasonal Laborers.  
Work week shall be Monday - Friday 7:00am to 3:30pm, 40 hrs/week.  
Wage subject to experience. No benefits.  
Must have a valid NYS Drivers License. Minimum age requirement is 18.  
Applicants are subject to pre-employment and random alcohol/drug testing.

Employment application can be obtained at Brockport Village Hall  
or downloaded from the Village website: [www.brockportny.org](http://www.brockportny.org).

Completed applications must be turned in to:  
Leslie Ann Morelli, Village Clerk  
Village of Brockport  
49 State Street, Brockport, NY 14420  
Monday thru Friday 8:30 am to 4:30 pm

Application Deadline: Thursday, May 24, 2012

Discussion:

Trustee Blair asked for confirmation that this was included in the budget. Treasurer Hendricks confirmed.

Trustee Hannan questioned how the seasonal labor would be utilized. She commented that she was not impressed with some the last time we had seasonal help.

Trustee Hunsinger suggested that she contact DPW Superintendent to discuss her concerns and get clarification on how they will be used – particularly since she is assigned as a liaison to DPW.

Clerk Morelli reminded the Board that seasonal laborers are somewhat limited as to what equipment they can operate.

**VOTE BY ROLL CALL AND RECORD**

Mayor Maria Connie Castaneda	Voting yes
Trustee Margaret B. Blackman	Voting yes
Trustee Kent R. Blair	Voting yes
Trustee Scott W. Hunsinger	Voting yes
Trustee Carol L. Hannan	Voting yes

Carried 5/0

- Authorize purchase of transfer switch \$2,899 ½ from Shafer Trust funds for Village Hall backup generator -

→ Trustee Blair moved, Trustee Hunsinger seconded to authorize the purchase of transfer switch \$2,899 ½ from Shafer Trust Funds for Village Hall backup generator.

Discussion:

Trustee Blackman suggested Treasurer Hendricks keep the Board apprised as to the Shafer Trust funds. Treasurer Hendricks said he would do so.

Trustee Hunsinger reminded the Board that the Trust requires the Village Board authorize use of the funds as they relate to the Emily L. Knapp Museum and Library of Local History and the Seymour Library.

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**VOTE BY ROLL CALL AND RECORD**

Mayor Maria Connie Castaneda	Voting yes
Trustee Margaret B. Blackman	Voting yes
Trustee Kent R. Blair	Voting yes
Trustee Scott W. Hunsinger	Voting yes
Trustee Carol L. Hannan	Voting yes

Carried 5/0

o Fire District Special Legislation Resolution – Clerk Morelli shared that this is an item added to the agenda at 4pm today. It was e-mailed to the Board by Attorney Leni and copies placed in front of them. Attorney Leni apologized for the late notice, but was contacted by Fire District Attorney DiRaddo late today. Apparently, Attorney DiRaddo was just now notified by the State Legislature that a home rule resolution should have been passed weeks ago by the 3 municipalities requesting the passage of the special legislation for the transfer of funds to the joint district, rather than an approval resolution after the state legislation was already passed, which is what was thought was necessary. In fact, Attorney Leni had placed the special legislation on the 5/22 Village Board agenda so that the Board would be prepared to approve it after passage by the State Legislature. The last day for passage of this home rule resolution is today. Attorney Leni was told that Sweden and Clarkson have already passed a resolution on the legislation which must have been done when a prior draft was circulating. Clerk Morelli needs to prepare, certify, seal the resolution tonight and forward to Attorney DiRaddo.

Discussion:

Trustee Hunsinger said it would seem Brockport is the last of the 3 municipalities to the party once again. Communication has been an issue that somehow leaves Brockport out of the loop.

Mayor Castañeda reminded the Board that Attorney Leni advised Brockport wait when the draft legislation was circulating.

→ Trustee Hunsinger moved, Trustee Blair seconded to approve the following resolution:

**RESOLUTION**

WHEREAS, the Village of Brockport, together with the Towns of Clarkson and Sweden, have duly determined to form a joint fire district to be known as the Brockport Fire District, following a special election for that purpose previously held on November 29, 2011, and

WHEREAS, in conjunction with the formation of said joint fire district, the intent of the municipalities of Brockport, Clarkson and Sweden is to transfer their unexpended cash and reserve accounts designated for fire protection to Brockport Fire District, which is necessary in order to fund the operations of the newly created Brockport Fire District for the period of July 1, 2012 until December 31, 2012.

NOW THEREFORE BE IT RESOLVED THAT,

1. That the Board of Trustees of the Village of Brockport hereby requests the state legislature to adopt special legislation to authorize the transfer of certain unexpended funds of the Village of Brockport, allocated for fire protection, and of unexpended cash and reserves of the Sweden Fire Protection District and the Clarkson Fire Protection District, to the Brockport Fire District, following the formation of the Brockport Fire District and the dissolution of the Sweden Fire Protection District and Clarkson Fire Protection District, and
2. That this resolution is effective immediately.

MOTION for adoption of this resolution by Trustee Hunsinger

Seconded by Trustee Blair

Discussion:

VOTE BY ROLL CALL AND RECORD

**VILLAGE OF BROCKPORT**

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Mayor Maria Connie Castaneda	Voting yes
Trustee Margaret B. Blackman	Voting yes
Trustee Kent R. Blair	Voting yes
Trustee Scott W. Hunsinger	Voting yes
Trustee Carol L. Hannan	Voting yes

Dated: May 8, 2012 Adopted

**OLD BUSINESS:**

- o Update on Village Court research – Trustee Blackman made a Power Point presentation (attached to the end of the minutes) that summarized the following report:

**JUSTICE COURT REPORT #2**

*Justice Court Revenue, Adjudication of Village Ordinances,  
Income and Expenses of the Sweden Town Court*

**Introduction**

In researching the question of, “Should Brockport have a Village Court?” I broadened the issue to ask, “How well is the Sweden Town Court serving the needs of the Village?” My first report addressed the issue of unpaid parking tickets and their resolution.<sup>1</sup>

This report addresses the revenue sources received by New York State villages with no village courts vs. revenue sources received by those with village courts, the adjudication of Village ordinances in our town court, and the revenue stream Brockport receives in fines and forfeitures. It also notes the revenue retained by the Sweden Town Court and the costs of operating that court.

Future reports will look at the only two SUNY municipalities—Geneseo and Fredonia—with both town and village courts, at new village courts that have been recently formed, and the startup costs and other requirements for a village court.

As the second in a series of reports on Village Justice Courts, this is simply a fact-finding document. It is not a proposal to establish a Village Court in Brockport.

**Sources**

For material in this report, I relied on a variety of sources, which included the following:

- The Office of the State Comptroller—Sweden Court dispositions from 2008-2011 and other financial figures relating to the court.
- Town of Sweden—information on court revenue and costs per Director of Finance, Leisa Strabel
- Sweden Town Court—personal communication, Judge Robert Conners
- Village of Brockport—Fines and forfeitures 6/1/08–12/31/11
- Village Attorney Rob Leni
- Brockport Police Department—Annual reports (2009-2011)



- Brockport Code Enforcement Office—Annual reports (2009-2011)
  - Office of Court Administration—phone conversations with Kevin Reilly and Jonathan Gold
- My research benefited from work done by last year’s ad hoc committee on the Village Court chaired by Trustee Scott Hunsinger, and from articles relating to the issue of a village court published in *The Rochester Examiner* by Tom Mangan. On two occasions I sat through a total of 5 hours of court dispositions, one of which involved village ordinances. Trustee Carol Hannan, Police Chief Daniel Varrenti, and student intern Tanya Raycroft met with me regularly offering assistance and commentary on the contents of this report.

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**The Revenue Stream from a Justice Court**

Because we do not have a village court in Brockport, the revenue we receive from fines and forfeitures is limited to two categories of local laws, village ordinances and parking regulations.

**VILLAGE REVENUE, WITH AND WITHOUT A VILLAGE COURT<sup>2</sup>**

<b>Types of Cases and Fines to which Village Courts are Entitled</b>	<b>What is the Village Entitled to without a Village Court?</b>
<u>Local law (Village Ordinances)</u> Villages are entitled to fines from violations of its local laws unless otherwise directed by statute	YES
<u>Local Parking Regulations</u> -Villages are entitled to the fines from local parking laws enacted pursuant to NYS Vehicle and Traffic Law 1640	YES
<u>Village Speed Limit</u> — Villages are entitled to the fines resulting from violations of local speed limits enacted pursuant to NYS Vehicle and Traffic Law 1643 &1644. BUT, of the fines, villages are only entitled to a total of \$5/year/resident. <sup>3</sup>	NO
<u>NYS Vehicle &amp; Traffic Law</u> — Villages are entitled to the fines from most violations of the State’s Vehicle and Traffic Laws except for Vehicle and Traffic Laws 1182 (speed contests and races), 1192 (DWI), and 1212 (reckless driving)	NO
<u>Penal Law</u> — Villages are entitled to fines resulting from convictions of the State’s Penal Laws.	NO

**PARKING TICKETS ISSUED AND VILLAGE ORDINANCE ARRESTS, BY CALENDAR YEAR<sup>4</sup>**

The following table shows the activity of the police department regarding violations for which the village is entitled to fines.

<b>Year</b>	<b>Parking Tickets Issued</b>	<b>Village Ordinance Arrests</b>
<b>2009</b>	<b>1610</b>	<b>244</b>
<b>2010</b>	<b>1798</b>	<b>251</b>
<b>2011</b>	<b>1578</b>	<b>441</b>

**WITHOUT A VILLAGE COURT, WHAT DOES BROCKPORT RECEIVE IN ANNUAL FINES AND FORFEITURES?<sup>5</sup>**

<b>Year (Jan-Dec)</b>	<b>Total Parking Violations Adjudicated</b>	<b>Total Parking Fines</b>	<b>Total Village Ordinance Violations</b>	<b>Total Village Ordinance Fines</b>	<b>Total Fine and Forfeiture Revenue</b>
2009	unknown	\$26,980	326	\$20,775	\$47,755
2010	unknown	\$32,670	261	\$20,080	\$52,750
2011	unknown	\$29,260	386	\$27,290	\$56,580

Parking tickets disposed in court range from \$30-60; the majority are for \$30. Estimating a

conservative average fine of \$35 for parking tickets in 2011, these fines represent 836 tickets out of 1578 or 51% of those written.<sup>6</sup> Fines from delinquent tickets (back to 2008) should increase in 2012 subsequent to the village's contract with Fundamental Business Service of Hempstead, New York to collect those fines.

Far and away the majority of village ordinance arrests and fines relate to late night disturbances of the peace and drinking behavior; far fewer relate to property codes.

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**PROPERTY CODE VIOLATION APPEARANCE TICKETS ISSUED, BY YEAR<sup>7</sup>**

<b>Year</b>	<b>Appearance Tickets</b>
2009	<b>unknown</b>
2010	<b>3</b>
2011	<b>11</b>

Surprisingly few property code appearance tickets are issued, particularly given the level of public complaint about code violations. Following suit, the number of property code violations prosecuted in the court is slim.

**PROPERTY CODE VIOLATIONS PROSECUTED IN SWEDEN TOWN COURT**

<b>Year</b>	<b>Number of Property Owners</b>	<b>Total Number of violations</b>	<b>Reduced to</b>	<b>Total Fines</b>
2009	5	42	3	\$1050
2010	3	9	2	\$1500
2011	3	12	5	\$475

**How Well are Village Ordinances being Prosecuted in the Sweden Town Court?**

A number of factors enter into this equation, among them: the attorney representing the village, the judge, the defendant's behavior at the time of the violation and the prior record of the defendant.

A review of the court dispositions of village ordinances from 2008-2011 shows:

1. The most common Village ordinance violations are open container, disorderly House/conduct, prohibited noise, littering.
2. Rarely are the above charges dismissed
3. The fines are consistent: Most commonly:
  - Open container \$100 (range = \$20 -250)
  - Prohibited noise \$50 (range = \$50-100)
  - Disorderly House \$100 (range = \$100-200)
  - Littering \$75 (range = \$75-100)
4. In the case of property code violations, the fines are not so clear because a schedule of remediation, negotiated between the code enforcement officer, the village attorney and the violator, affects the adjudication of charges and the fines applied.
5. The judicial process is slow for village ordinances compared to villages with village courts which deal with village ordinance violations as often as twice a month. Our village attorney appears in court 6-8 times a year to prosecute village ordinance violations.

**Pluses and Minuses of A Village Court**

**WHAT ARE THE ADVANTAGES OF THE STATUS QUO (NO VILLAGE COURT)?**

- 1. An annual net revenue of approximately \$52,000 from the Sweden Town Court, which itself operates at a deficit (see below)
- 2. None of the substantial costs of staffing and operating a court.

**WHAT IS BROCKPORT LOSING BY NOT HAVING A VILLAGE COURT?**

- 1. *Brockport provides the majority of the Sweden Town Court’s business.*

Without going through dispositions case by case, we do not know exactly how many cases are

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Brockport’s and how many are exclusively Sweden’s (except for Village Ordinance violations which are listed separately and indicated by the code, “VO”). A conservative estimate, based on Geneseo, as a SUNY municipality,<sup>8</sup> is that about 40% of the court’s business is Sweden’s, and 60% Brockport’s.

- 2. *Brockport receives no income for vehicle and traffic violations, or criminal violations*

In 2011, the Brockport Police Department made 1662 Vehicle and Traffic arrests, 259 speeding tickets, and 128 passed stop signs. Typically, most of the speeding tickets would have been pled down to violation of 1110A, “Failure to obey a traffic control device” in which case all of the fine money would revert to the village if we had a court.

In 2011 the BPD made 291 criminal arrests, which, with a village court, would result in fines paid to the village.

- 3. *A Village court would mean a more integrated and responsive judicial system*

Put simply, the police department would be writing tickets and making arrests that would be adjudicated at the local level, with the fines returning to the community in which those violations occurred.

Additionally, Village courts have a flexibility that all other courts in the state do not. They can be created and abolished in response to local demand and circumstances.

**Income and Expenses of the Sweden Town Court**

**SWEDEN TOWN COURT GROSS INCOME<sup>9</sup>**

Year	Total	State	County	Local (Sweden)
2009	\$442,330.15	\$210,908.00	\$37,871.05	\$193,551.10
2010	\$383,370.24	\$175,860.60	\$45,694.17	\$161,815.47
2011	\$421,338.05	\$197,030.00	\$44,172.35	\$180,135.70

The local gross income is after reimbursing the Village for village ordinance fines and forfeitures, but before deduction and payment of parking fines due the village. This figure reflects the fact that Sweden was not reporting parking ticket dispositions to the OSC (see figures, next page).

**SWEDEN COURT PERSONNEL COSTS (EXCLUDING BENEFITS)<sup>10</sup>**

Year	Court Personal Services
2009	\$125,264
2010	\$128,668
2011	\$134,214

Personnel costs shown here are salaries only. They cover 3 part time judges, 3 fulltime clerks, and a part time court attendant. Benefits (\$31,864 in 2011) are an added cost as are contractual costs. The latter totaled \$20,460 in 2011 and cover stenographers, court interpreters, computer software, dues/conferences/training/mileage, law manuals/criminal files/appearance tickets/dockets, office

phone. Other costs, not tracked through the court but charged to the central building, include mailing, liability insurance, central office supplies, and payroll production. The court is not charged for use of the facility.

**Town of Sweden’s Court Revenue/Costs<sup>11</sup>**

Year	Total Fines Collected by Sweden Court	Fines Retained by Sweden Court	Cost of Court Operations	Cost of Court to Sweden Taxpayers
2009	\$442,300	\$174,751	\$184,164	\$9,413
2010	\$362,426	\$140,310	\$173,433	\$33,123
2011	\$426,767	\$151,221	\$186,538	\$35, 317

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The Sweden Town Court has operated and continues to operate in the red. We, as taxpayers, cover this deficit in our town taxes. Were Brockport to have its own village court, state law would not exempt village residents from supporting the town court with our tax dollars.

The Office of Court Administration does not evaluate courts based on their efficiency, though other courts are more efficient than the Sweden Town Court as measured in cost per case; rather, the OCA notes that courts, as an essential arm of government, are not created to be revenue producing. Some, like Geneseo’s town and village courts are; some like Sweden’s are not.

**Some Recommendations for Working within the Present System**

It’s safe to assume that most of us are not closely following court activity, talking to judges or the village attorney about court matters, much less attending dispositions. Most of us are not aware of what transpires in court and how violations of our village codes are being dealt with.

The Village Board should discuss court fines and policies with the Village Attorney. It would also be helpful for the Village Attorney to periodically report at Village Board meetings on the disposition of village codes subsequent to his periodic appearances in court.

Code enforcement of property codes continues to be a weak link in the judicial system though the number of appearance tickets has increased markedly since moving the code enforcement office to the Brockport Police Department. Placing code enforcement with law enforcement under the supervision of the Police Chief will further strengthen code enforcement in the Village regardless of whether these violations are prosecuted in a village or a town court.

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- 1 In terms of parking tickets, it turned out not that well. Dispositions of parking tickets were not being recorded and transmitted to the *Office of the State Comptroller* as required, and the village was receiving only an annual check from the town of Sweden for parking fines. Although the town and court each possessed copies of the parking tickets as a crosscheck, the village had no way to account for the accuracy of the annual payment it received. That problem will shortly be resolved with the hiring of a collection agency which not only requires that the town court record dispositions, but which pursues delinquent tickets. As we collect only about 50% of the parking tickets issued, this will mean more revenue for the village, particularly since fines double after 30 days.
- 2 Beltramo, Wade, “Creating, Dissolving, and Running Justice Courts,” 2008 NYCOM Fall Training School, Lake Placid, New York. September 18, 2008.
- 3 Very often, speeding tickets are pled down to a violation of State Law 1110A, Failure to obey a traffic control device (e.g. speed limit sign) because the municipality gets to keep more of the fine and the violator gets fewer points on his/her driver’s license.
- 4 Brockport Police Department, Yearly Reports

- 5 Fines and forfeiture information from the Office of the State Comptroller. Parking fine information from Leisa Strabel. Parking ticket fines from previous years, per Leisa Strabel: 2008 - \$25,755, 2007 - \$37,180, 2006 - \$38,910.
- 6 This assumes all tickets written in 2011 were adjudicated in 2011, which is never the case.
- 7 Brockport Office of Code Enforcement, Appearance Ticket Master List (March 2012).
- 8 Personal communication, Jane Dulmage, Geneseo Village Court clerk, February 2012.
- 9 (Does not include operating costs, personnel, etc.) Justice Court Fund, Court Ranking Reports (Revenues Collected). Office of the State Comptroller, Local Government and School Accountability. [www.osc.state.ny.us/localgov/datanstat/jc/index\\_choice.htm](http://www.osc.state.ny.us/localgov/datanstat/jc/index_choice.htm)
- 10 Figures from Office of the State Comptroller
- 11 Per Leisa Strabel, March 20, 2012

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Discussion:

Trustee Hannan said she attended an arraignment last weekend related to a Brock the Port incident. It was done by a Clarkson Judge instead of a Sweden Judge.

Trustee Blair said here it was the busiest night of the year and the 3 Sweden Judges were unavailable. One Sweden Judge was available for 1 case, but 4 had to go elsewhere.

Trustee Blackman said it is obvious better planning for Judge coverage / availability is needed.

Trustee Hannan said the one she attended was \$1,000 cash or \$2,000 bond at the County.

Trustee Blair said a similar charge got \$100 bail from Sweden. A Police Officer had to be with the prisoner from 4:30pm to 8:30pm.

Trustee Hannan said her ride along stopped once the arrest was made.

Trustee Hunsinger commented on the figures showing how much the Village received 2009-2011 which seem to average out to a \$70 fine per offense.

Trustee Blackman said maximum fines are \$250, but Sweden is consistent with \$50, \$75, \$100 fines.

Trustee Hunsinger said the typical fines imposed seem to be known. A "disorderly house" got a fine. One resident asked for no ticket because she didn't have the \$25 to split with the other 3 residents to pay the \$100 fine. Violators hope to bargain and pay the least possible.

Trustee Blackman said it may depend on the Judge.

Trustee Hunsinger said it also may depend on how the ticket is written.

Trustee Hannan said in her experience, they get no sympathy from the Village Attorney.

Mayor Castañeda said the idea of a Village Court was brought up in 2006 by Chief Varrenti. Then a few years later an Ad-Hoc Committee was formed that ended in a one-page report. Now Trustee Blackman is doing some thorough research. However, many Villages have actually dissolved their courts as it is seen as a duplication of services and of taxpayer monies to pay for a Town and a Village Court. A Court should be about dispensing justice, not producing revenues.

Trustee Blackman said she is not suggesting such, but it is important to pay attention to the fine/revenue aspect. She gave an example of a good outcome of a violator paying 4 of 6 parking tickets to avoid a trial which eliminates the cost of having to bring Police Officers in, etc. Yes, more Village Courts are dissolved than formed. However, the Office of Court Administration said if a municipality is large enough to have a Police Department; it is large enough to have a Court.

Mayor Castañeda said she previously reported that Sweden, Clarkson, Fairport Courts all run in the red.

Trustee Hannan said other Courts have lower Judge salaries than Sweden and 2 instead of 3 Judges.

Trustee Blackman said she is researching Geneseo and Fredonia.

Trustee Hunsinger said a Geneseo Court representative told Trustee Blackman the revenues are a “cash cow”.

Trustee Blair commended Trustee Blackman’s research on this and looks forward to further reports.

**VILLAGE BOARD REPORTS:**

o Mayor M. Connie Castañeda

▪ Confirmation of CDBG of \$37,250 for Barry Street Water Main Replacement Project – Mayor Castañeda shared correspondence from County Executive Brooks that \$37,250 for the Barry Street Water Main Replacement project is on the list of CDBG projects contained in the 2012 Annual Action Plan for Housing and Community Development in Suburban Monroe County.

▪ 6/16 – Annual MCDES Mobile Household Hazardous Waste Collection – call 637-2144 to schedule – Mayor Castañeda announced the annual County Mobile Household Hazardous Waste Collection Program – Brockport and Sweden residents should call 637-2144 to schedule an appointment for the June 16<sup>th</sup> 7:45am to Noon collection at the Town of Ogden Highway Garage.

▪ Association of Monroe County Village Mayors – upcoming training opportunities

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Mayor Castañeda announced a training opportunity for Village Boards and Ethics Boards to be held **MINUTES OF VILLAGE BOARD MEETING HELD May 8, 2012 continued.....page 14**

Wednesday, June 6<sup>th</sup> at MCC – 2 hours on Ethics by NYCOM’s John Mancini and Thursday, June 21<sup>st</sup> in Churchville with Seneca Falls officials regarding their dissolution experience.

▪ SUNY Military Ball – Mayor Castañeda reported that she was invited to and attended the SUNY Military Ball on April 27<sup>th</sup>. The leadership of the ROTC program has expressed an interest in providing a leadership seminar for Village officials – possibly in August. More information to come.

▪ Workers Comp Program - Mayor Castañeda reported that she and Treasurer Hendricks attended a dinner of the Upstate New York Municipal Workers Compensation Program on April 21<sup>st</sup> in which the surplus checks were presented. Clerk Morelli was unable to attend. She thanked her for representing the Village at the quarterly meetings, entering and following claims and loss control prevention efforts.

o Trustee Margaret B. Blackman

▪ Arbor Day – Trustee Blackman reported on the good turnout for the annual Arbor Day ceremony and tree planting held April 27<sup>th</sup>. The Tree Board was pleased to have community volunteers as well as High School students and SUNY Delta Sigma students help plant 17 trees on Barry Street and in Barry Street Park.

▪ Erie Canal Workshop - Trustee Blackman reported on having attended a workshop organized by Bill Andrews on May 2<sup>nd</sup>. Although a small group, those on the Award Selection Committee came to learn more about Brockport, its canal front and historic preservation efforts.

▪ NYS DEC Tree Grants - Trustee Blackman shared that the application deadline of June 21<sup>st</sup> is approaching. She will bring forward materials for the first Village Board meeting in June – to apply for the next round of grants – to update the Village’s tree inventory.

o Trustee Kent R. Blair

▪ Brock the Port – Trustee Blair reported on having done a ride-along with the Police Department on May 4<sup>th</sup>. It included 4 people jumping 1 small person, the employee of a local pizza establishment trying to break it up, a couple of chases, an Officer having his chin lacerated when a closed beer can was thrown at him. He said there were 5 Brockport Police cars and 5 Monroe County Sherriff’s cars on duty. The action was non-stop. Red lights being on helped disperse crowds. Trustee

Blair said the incidents related to the last day of SUNY classes / Brock the Port seems to get worse each year. The Officers he spoke with said this is the most disrespectful and intoxicated they have seen students.

o Trustee Carol L. Hannan

▪ Arbor Day – Trustee Hannan shared that she helped with the Arbor Day planting and congratulated Trustee Blackman for being honored by the Tree Board with a certificate of appreciation.

▪ Beyond the Brockways and Seymours - Trustee Hannan shared that she and

Pam Ketchum will be making a presentation at 6:30pm on May 16<sup>th</sup> regarding those who contributed to the development of the Village. There are other historic presentations being held on May 9<sup>th</sup> by Bill Andrews and May 23<sup>rd</sup> by Eunice Chestnut.

- James Howard Kuntsler Presentation - Trustee Hannan shared that she attended the May 4<sup>th</sup> presentation by James Howard Kunstler who attended SUNY Brockport and is a nationally and internationally recognized writer on the state of American culture and economic development. It was co-sponsored the College at Brockport Alumni Association, Greater Brockport Development Corporation and Walk! Bike! Brockport!

- Brock the Port - Trustee Hannan reported on having done a ride-along with the Police Department on May 4<sup>th</sup>. She said it was quite eventful. She had the opportunity to witness an arrest, booking, court appearance in Clarkson, and trip to Monroe County jail. The student said he is an “A” student in Criminal Justice with finals the following week with plans to go into the air force. He now has a police record which may very well affect his criminal justice or air force plans. A single night of severe intoxication, poor judgment and illegal actions can change one’s future. It’s quite sad. She said the vestige of SUNY Brockport being a party college remains somewhat. It affects the entire community.

- Trustee Scott W. Hunsinger

- Brock the Port – Trustee Hunsinger reported on having done a ride-along with the Police Department on May 4<sup>th</sup>. He said he has done so every year as a Trustee. While the events on the college campus are very well run, the spillover of problems into the Village are numerous. There are 3 demographics: the SUNY Brockport students – some, not all, being intoxicated, students from other colleges, and underage local and greater Rochester area kids here because friends of friends were having parties. Once the parties were shut down, they had no place to go and were intoxicated with open containers on the streets. Trustee Hunsinger said we can’t blame the College. However, they need to work with the Village to look at this and be part of the solution. Trustee Hunsinger said he was a Criminal Justice major when in college years ago and it is heartbreaking to see a student jeopardize their future for one day of excess. He said for those taxpayers who don’t see the need for the Brockport Police Department, this is but one example of the need. House parties were shut down within minutes of complaint. He said Chief Varrenti ran and dove onto a violator and “cuffed and stuffed” him. He said it was like seeing a Buffalo Bills cornerback in action. It is an honor and privilege to have the Brockport Police Department – worth the cost.

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- Codes - Trustee Hunsinger said it is important to further align Code Enforcement with the Police Department. Voting yes on the proposition June 19<sup>th</sup> will help make it non-political.

- Response to Sriram Bakshi - Trustee Hunsinger referred to the earlier public comment and told Sriram Bakshi he respects him greatly. Progress has been made by way of the finances, budget, upcoming proposition regarding code enforcement to name a few. He said residents have the opportunity to run for the Village Board. Trustee Hunsinger said he does want to work together, but it does become personal. He promised that he will try harder to play well in the sandbox together.

- Board/Committee Vacancies - Trustee Hunsinger referred to a few vacancies on Boards and Committees in particular one vacancy on the Parks Committee. A sole application of Linda Ketchum remains unacted upon as the Mayor has not brought her name forward for appointment. He apologized to L. Ketchum for this and urged her as knows she has already been of assistance and would be asset to the Parks Committee. As to the Ethics Board vacancies, the Trustees appointed two applicants at the last meeting, but then the Village Attorney pointed out to the Board some concerns as to meeting the Village Code regarding qualifications/disqualifications. He asked Mayor Castañeda if the appointees had been notified.

Mayor Castañeda said Dan Donovan and Steve Locke have not yet been notified of their appointment or concerns regarding qualifications/disqualifications. Attorney Leni would like to meet with the Board in Executive Session May 22<sup>nd</sup>. Had this been placed as an agenda item before the April 24<sup>th</sup> action, the concerns would have been caught ahead of time.

**EXECUTIVE SESSION:**

- Deputy Clerk-Treasurer – search committee to bring forth finalists (separately to meet Trustees – for appointment consideration 5/22

→ At 8:15pm, Trustee Hunsinger moved, Trustee Blair seconded, carried 5/0 that the Board of Trustees of the Village of Brockport enter into executive session to discuss a personnel matter regarding interviewing finalists brought forward by the Deputy Clerk-Treasurer Search Committee. Clerk Morelli and Treasurer Hendricks were invited to sit in.

→ At 9:10pm, Trustee Blair moved, Trustee Hannan seconded, carried 5/0 that the Board of Trustees of the Village of Brockport re-enter the regular meeting.

Trustee Blair commented that meeting with the Deputy Clerk-Treasurer finalists was productive.

Trustee Blackman said the Trustees appreciate the opportunity to have involvement to be able to make an informed decision.

**ADJOURNMENT:**

→ At 9:11pm, Trustee Hunsinger moved, Trustee Blair seconded, carried 5/0 that the meeting be adjourned.

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Leslie Ann Morelli, Village Clerk