

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, December 11, 2012 at 7:00pm.

PRESENT: Mayor M. Connie Castañeda, Trustee William G. Andrews, Trustee Margaret B. Blackman, Trustee Kent R. Blair, Trustee Carol L. Hannan, Clerk Leslie A. Morelli

ALSO PRESENT: Brian Winant, Sriram Bakshi, Pam Ketchum, Joan Hamlin, Norm Giancursio, Fred Webster, Kristina Gabalski

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:

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

Today, I had the opportunity to do some accounting of my involvement with community service in the village parks this year. In November, 500 daffodil bulbs were planted at the Welcome Center and Harvester Park. And since mid-April 2012, I have had the privilege of working in our parks with one college service group and 13 individuals required by our court system to complete community service. Individuals worked a range of 3 to 50 hours for a total of 291 hrs. That multiplied by \$8/hr. comes to about \$2,300. I worked along with these individuals and am typically paid \$25/hr. for gardening in private gardens. So my financial contribution to the village was approximately \$7,200. Together those figures add to about \$9,500. This is a very enjoyable experience for me and I look forward to continuing to promote good living in our village. Part of the beauty of the parks project is that there is little or no cost to the village and taxpayers.

There are hundreds of people in Brockport who generously give time and effort day in and day out because they care so much about the village.

Tonight, I understand that there may be a vote on whether to purchase e-code 360, paying approx. \$10,000 this budget year and \$10,000 next year. I would request that the board wait on this project until it is in the 2013 budget for the following reasons:

- This is not an emergency situation. Contingency funds are to be used for emergencies.
- It is important for the Brockport public to understand that the village and its governing body is living within its means and has gained financial health and stability because of careful planning.
- We don't want Brockport voters to think that now that we have fairly good financial standing, that the board is ready to jump into spending money right and left especially when it is not immediately necessary.
- The state comptroller advises not to spend money unless it is planned and budgeted.
- The village has time in the proposed e-code 360 contract to put the expense in the budget with no additional costs. It won't hurt to wait.
- We don't want to fuel the fire, especially of village dissolutionists; that there is wasteful, unplanned, non-emergency spending by the mayor and board.

Don't get me wrong, the e-code 360 program may eventually be an excellent investment but let's not take a chance and give the wrong message to the public. Who knows; heaven forbid, a true emergency comes up and then we are quickly trying to bail a sinking ship. The mayor and board should carefully budget both tax dollars and the "donated dollars of volunteer effort" that have been provided to this creative and hard-working village.

Pam Ketchum

- Brian Winant of the Stetson Club – wished everyone Happy Holidays and said he was pleased with the 2nd annual holiday parade held 12/2 that included the tree lighting and fireworks. Many have commented on not being able to hear the announcers. A possible item for the Grant Writer to pursue would be funding for a speaker system throughout the Downtown Historic Commercial District. B.

Winant requested parade approval for Sunday, 12/8/13 at 5pm with fireworks afterwards.

→ Trustee Blair moved, Trustee Andrews seconded, carried 5/0 to grant the parade permit for the 3rd annual holiday lights parade and per Village Code Chapter 18 Firearms, Fireworks and Explosives Section 2 Exception for organizations – to consent to fireworks being a part of the 5pm Sunday, December 8, 2013 holiday parade being organized by the Brockport Stetson Club.

Copy of permit from New York State Canal Corporation and proof of insurance from fireworks company must be provided to Village Clerk prior to event.

B. Winant shared that some of the service people featured on the Hometown Heroes banners have completed their service. There will be a banner retirement gathering at Noon on 12/22 at the Vets Club on West Avenue. The service people and/or their families will be presented with the banners. B. Winant asked Mayor Castañeda if she would like to say a few words at the gathering. Mayor Castañeda said she would be happy to.

- Linda Ketchum of Erie Street – Clerk Morelli was asked to read the following prepared statement into the record:

Dear Board Members:

Thank you for all your efforts in the past year resulting in our Village’s very good financial standing. It has come to my attention that a vote to approve spending for e-code 360 software is on the agenda tonight. While the revitalization of Village code is very important, I believe that it is more important to budget the spending for the software portion. If the same price is available in six months when the next budget is in place, it would be more appropriate to include it then.

Spending money from the general fund or the contingency fund at this time is unnecessary. It’s not an emergency. It took a lot of work to build the funds up to this point. I am a volunteer, along with my husband Mark, working to make the Village a better place while helping to keep spending low. Please think about this a little more before voting tonight.

Linda Ketchum

Trustee Andrews concurred with P. Ketchum’s earlier comment about there being numerous citizens in the community that work to better the Village without compensation and with little recognition. He expressed his gratitude to P. Ketchum for working to beautify practically every public property within the Village and for working with and befriending community service referrals from the Court on such.

Trustee Andrews also commended the Stetson Club for organizing a wonderful holiday parade and fireworks. He said he believes it was a boost to businesses in the downtown commercial district.

Mayor Castañeda concurred with Trustee Andrews and also thanked Trustee Blair for his leadership in helping to organize the parade.

CONSENSUS ITEMS:

• **APPROVAL OF MINUTES:**

→ Trustee Blair moved, Trustee Blackman seconded, carried 5/0 that the minutes of the 11/27/12 meeting be approved as amended.

→ Trustee Blackman moved, Trustee Hannan seconded, carried 5/0 that the minutes of the 12/4/12 work session be approved as amended.

• **APPROVAL OF BILLS TO BE PAID**

→ Trustee Hannan moved, Trustee Blackman 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>	12/7/12	\$19,942.17
FUND (F): <u>Water</u>	12/7/12	\$256.22

FUND (H): <u>Capital</u>	-	-
FUND (T): <u>(Trust & Agency)</u>	12/7/12	\$100.00
		\$20,298.39 grand total

CLERK REPORT:

- o Clerk – Leslie Ann Morelli
 - o UNYMWCP update - Clerk Morelli reported that Treasurer Hendricks attended the quarterly meeting held 12/5. She reviewed the draft minutes and is happy to report that the Village will be receiving a special surplus refund for program year 2011 of \$16,682. This is surplus cash in the program – the balance of the 40% share of the contributions that go toward the administrative costs, insurance premiums and program expenses other than claim costs. Members must be in the program 5 years to be eligible for such. Clerk Morelli strongly recommends this be placed in the Workers Compensation Reserve as there may come a time when the Village is hit with a deficit that it will need to make up for. The program has provided trainings recently related to DPW employees related to heavy equipment backovers, changes to OSHA/PESH haz com standards, and hazard awareness. The program reports frequency of incidents and severity of incidents is down overall with categories of claims being highest in public works, then fire, then police, then other.

- o Deferred Comp – necessary resolutions re model plan - Clerk Morelli reported that the Village has to file necessary paperwork by the end of the calendar year.

→ Trustee Blackman moved, Trustee Hannan seconded, carried 5/0 to adopt the following resolution and approve the filing of the following documents and the updated service agreement with Nationwide Retirement Solutions.

Deferred Compensation Committee Resolution
 to Amend and Restate the Model Plan

WHEREAS, the New York State Deferred Compensation Board (the "*Board*"), pursuant to Section 5 of the New York State Finance Law ("*Section 5*") and the Regulations of the New York State Deferred Compensation Board (the "*Regulations*"), has promulgated the Plan Document of the Deferred Compensation Plan for Employees of the Village of Brockport (the "*Model Plan*") and offers the Model Plan for adoption by local employers;

WHEREAS, the Village of Brockport, pursuant to Section 5 and the Regulations, has adopted and currently administers the Model Plan known as the Deferred Compensation Plan for Employees of the Village of Brockport;

WHEREAS, effective August 26, 2011 the Board amended the Model Plan to adopt provisions

- Reorganizing and updating sections to improve the overall readability and eliminate unnecessary numerical references (annual limits) from the Model Plan document.
- Including employer elections within the plan document including: suspension of deferrals following an unforeseeable emergency withdrawal, automatic distributions from small and inactive accounts, loan design parameters and Roth deferrals and in-plan conversions are permissive. The Model Plan document includes a Schedule A where the employer may indicate the election of one or more of these provisions.
- Clarifying the first date a participant may make deferrals in compliance with Code Section 457(b) and timing requirements for any subsequent changes to deferral rates or allocations between pre-tax and after-tax deferrals.
- Clarifying compensation available for deferral for purposes of calculating contributions and recognizes that employers use various methods in determining the order of deductions taken before a deferral percentage is applied.
- Including provisions related to HEART Act of 2008 regarding treatment of differential pay and qualifying distributions for active military service in compliance with the HEART Act, including suspension of deferrals for six months following distribution.
- Making technical recognition of the waiver of RMDs for 2009.
- Clarifying that a beneficiary form must be received in good order to be considered valid.

- Clarifying that the Model Plan will only accept rollovers from Eligible Retirement Plans comprised

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of pre-tax amounts and amounts may be rolled in by participants, beneficiaries (other than inherited accounts) and alternate payees. Model Plans may roll account balances out to Eligible Retirement Plans that include post-tax amounts if the receiving plan separately accounts for them.

- Clarifying that a beneficiary of a deceased participant may roll a distribution directly to a Roth IRA, in addition to plan participants.
- Including language allowing for future delivery of participant communications through electronic means, where appropriate.
- Codifying that periodic and lump sum payments must be a minimum of \$100 per payment, unless the Committee selects a different minimum, and sets a maximum annual number of partial distributions.
- Clarifying that the \$50,000 loan limit includes the highest loan value in the last twelve months from the Model Plan and other employer plans. Regarding participants who have defaulted on a Plan loan, subsequent loans would not be allowed until defaulted loan is repaid. Removes requirement that a participant must wait until the term of the original loan expires before applying for a new loan, assuming the defaulted loan is repaid.
- Providing guidance on the handling of the receipt of special proceeds such as SEC settlements payable to former participants.
- Allowing a surviving spouse beneficiary to name a beneficiary on their account.
- Including the 5 year option for non-spousal beneficiaries to receive distributions and makes distribution rules consistent for pre- and post-age 70½ deaths.
- Allowing earlier distributions due to severance of employment as long as a balance of \$500 remains in the account for 45 days after a severance from employment.
- Providing that outstanding loans from another New York state 457(b) plan may be allowed to be transferred or rolled in with a full account transfer.
- Removing the Power of Attorney Language since the acceptance of a power of attorney is governed by State law and not required in the Model Plan document.
- Clarifying the requirement that Committee actions must be taken at a public meeting in accordance with Article 7 of the Public Officers Law.
- Limiting indemnification to Committee Members only.

WHEREAS, the Board has offered for adoption the amended and restated Model Plan to each Model Plan sponsored by a local employer in accordance with the Regulations; and

WHEREAS, upon due deliberation, the Village of Brockport has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of the Village of Brockport by adopting the amended Model Plan.

NOW, THEREFORE, BE IT

RESOLVED, that the Village of Brockport hereby amends the Deferred Compensation Plan for Employees of the Village of Brockport by adopting the amended Model Plan effective August 26, 2011, including the optional provisions in Schedule A, in the form attached hereto as Exhibit A.

IN WITNESS WHEREOF, the undersigned have executed this Resolution in Monroe County, New York this December 11, 2012 and directed that it be filed as appropriate.

Affidavit

The undersigned, first duly sworn, attests that:

The documents as referenced in Section 9002.2, subdivisions (2), (3), (4), (5) and (6) are identical to those submitted in the most recent filing:

<u>Yes</u>	<u>No</u>	<u>Documents referenced under subdivision</u>
X	<input type="checkbox"/>	(2) – executed copy of trust agreement(s)
X	<input type="checkbox"/>	(3) – certification of compliance with Section 457
X	<input type="checkbox"/>	(4) – name of each trustee, independent consultant, financial organization, firm of certified public accountants and administrative service agencies providing services to the plan
X	<input type="checkbox"/>	(5) – evidence of bonds and insurance secured
X	<input type="checkbox"/>	(6) – acknowledgement of fiduciary under Section 457(g)

Documents that are not identical to those submitted in the most recent filing will be supplied with the attached filing.

Date of last filing: _____

In witness whereof, I have hereunto affixed my signature this 11th day of December, 2012.

December 11, 2012

Certification 9002.2 a (3) and 9002.2 a (4)

President Nancy C. Groenwegen
 NYS Civil Service
 Alfred E. Smith Office Building
 Albany, NY 12239

RE: Deferred Compensation Plan for Village of Brockport)

Dear President Sinnott:

Pursuant to the procedures for bidding and establishing an “ eligible deferred compensation plan” set forth in Subtitle II, Parts 9002 and 9003 of the June 15, 2011 Rules and Regulations, (the“ Regulations”), by the New York State Deferred Compensation Board, we are adopting for the benefit of our employees the Model Plan, as amended and restated on August 26, 2011 (the “ Model Plan”).

Pursuant to Section 9002.2 a (3) of the Regulations, we certify the following:

- a. We, on behalf of the (Entity Name) are aware that there are three options available for adopting a Deferred Compensation Plan as described in Section 9001.2 (a) of Regulations, that we have made an informed choice in adopting such plan, and that we understand the ongoing responsibilities being undertaken by adopting such a plan, including and without limitation, the Regulations, Section 457 of the Internal Revenue Code and the Model Plan Document;
- b. That the Deferred Compensation Plan and Trust Agreement meet the requirements of Section 457 of the Internal Revenue Code and all other applicable Federal, State and local laws including Subtitle II of the Regulations; and
- c. That all required approvals of any local governing body or officer have been obtained.

Pursuant to Section 9002.2 a (4) of the Regulations, we certify the following:

The following contractors, who are providing deferred compensation services for the (Entity Name), have been duly selected to provide these services in accordance with the provisions of Part 9003 of the Regulations:

Administrative Service Agency: Nationwide Retirement Solutions
 Financial Organization: Nationwide Financial Services, Inc.

Trustee Fiduciary / Indemnification / Bonding Acknowledgment (For self-trusted plans)

I, Maria Connie Castañeda, Mayor and Daniel P. Hendricks, Treasurer - Trustee for the Village of Brockport's Deferred Compensation Model Plan, acknowledge that I am a fiduciary and acting in a fiduciary capacity and responsible pursuant to Sections 9003.6 and 9002.2(6) of the *Rules & Regulations*, Section 457(g) of the Internal Revenue Code, and under State and common trust law principles with respect to trusteeship matters involving the administration and investment of Plan assets, and that the Plan will be indemnified as a result of any cause of action brought against it as a result of any acts or omissions together with the reasonable cost of litigation arising therefrom. I also state that insurance coverage, on myself acting as Trustee and on other employees, officers and agents pursuant to Section 9005.4 of the *Rules and Regulations*, is in place to protect the Plan against any loss resulting from fraud or dishonesty in the amount of **100 percent of the amount of funds managed or administered** to a maximum of \$25 million. However, insurance may exceed \$25 million where that coverage is found to be prudent.

- **OLD BUSINESS:**

- Approve & authorize Mayor to sign General Code proposal re Village Code revitalization & e-code 360 -

→ Trustee Blackman moved, Trustee Blair seconded to approve and authorize the Mayor to sign the General Code proposal with cost able to be split over 2 fiscal years.

Discussion:

Trustee Blair said he thought this was dealt with at the last meeting.

Clerk Morelli said there are some inaccuracies to a public comment earlier in the meeting as to the purpose and cost. The proposal does not equate to \$20,000, nor is it software. What was decided at the last meeting was the purchase of software for the Building/Codes Office of which General Code was one of the vendors being considered, but not selected. This is regarding updating the Village Code Book since the Board had held her from doing so the last 4 years due to fiscal constraints. The local laws adopted since late 2008 have to be published in the Code book and it was recommended to revitalize the odd sized code book going to 8 1/2" by 11", making it available on line and not so many hard copies, etc.

Trustee Hannan said she is in favor of the proposal, but not this fiscal year since it was not budgeted.

Trustee Blackman concurred and said it can be worked into the next fiscal year budget.

Trustee Blair concurred and said the Village Code stands regardless of whether the Local Laws have been published into the book. He referenced comment by Mayor Castañeda recently regarding the Emergency Operating Plan being in place since 2002 regardless of updates being needed. He believes it can be worked into the next fiscal year budget.

Mayor Castañeda said she concurs, but asked the Trustees to keep that logic in mind when they approve other items that come up that have not been budgeted for and are not of an emergency nature.

Trustee Blair said each has various priorities.

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- Proposed MOU with Brockport Fire District re snowplowing & vehicle & facility use – Mayor Castañeda said after the Board unanimously voted not to approve such at the 11/27 meeting, BFD Commissioner Chair Sauberan attended the 12/4 work session and then followed up with her after that. She said BFD is fine with consideration of \$500 to the Village for snow plowing the 3 BFD lots on Market Street, West Avenue and Main Street. She said Attorney Leni recommended the Board approve amending the MOU as such.

Trustee Blair said the 30-day notice to use the van or Market Street facility meeting room needs to be changed.

Trustee Andrews concurred and said if any community group wished to use the Village Hall conference room, they do not need 30 days notice. They can call the Clerk the day ahead and if it is available, they can use it. Further, he said Police Chief Varrenti indicated that use of the van is rare and that they could car pool or rent a vehicle if truly needed.

Trustee Blair said the Police Explorers do use the meeting/training room and sometimes do so in conjunction with the Fire Explorers. He said we don't want to set up roadblocks for that continuing.

Trustee Blackman said she can see that but believes it is worth taking the 30-day notice language out.

Trustee Hannan concurred and said if an emergency should arise the 30-day notice could not be met anyway.

Trustee Blair said the Emergency Operations Center of the Village's Emergency Operating Plan is listed as the basement of the Market Street Fire Hall. It has been suggested that Village Hall could serve as such now that it has a backup generator. He said the Market Street firehouse is best equipped to provide radio communications for police and fire departments in the event of an emergency or disaster. Therefore, he would like to keep that in the MOU.

Trustee Andrews said he believes the \$500 figure is arbitrary. It should be determined how much time is required to keep those parking lots clear. The Village shouldn't make money on it, but should cover its costs. He asked if anyone asked DPW Superintendent Donahue for a cost analysis. Trustee Blair said snow plowing was previously discussed with him and he had plowing of the lots on the schedule.

Mayor Castañeda said DPW Superintendent Donahue had mentioned sometimes needing snow storage space in the Market Street Fire Hall lot. Therefore, there would be no consideration (\$) charged for plowing that lot.

Trustee Blair concurred and said it was to be \$500 for plowing of Main Street (Capen Hose) lot and \$500 for plowing of West Avenue (Protectives) lot for a total of \$1,000. He said he would prefer to see the MOU amended before voting on it. However, due to not meeting again for a few weeks, something should be put in place.

→ Trustee Blackman moved, Trustee Blair seconded, carried 5/0 to allow DPW to plow snow of the 3 Brockport Fire District parking lots within the Village and to have Village Attorney Leni amend the proposed MOU to reflect consideration of \$1,000 (\$500 for West Avenue lot and \$500 for Main Street lot and zero for Market Street lot since we utilize it for snow storage and some municipal parking) and to delete the 30 day notice required for use of meeting room(s) at Market Street fire hall or for van.

NEW BUSINESS:

○ Approve & Authorize contracts with Clinton Brown for the HPB comprehensive survey & website creation – Trustee Andrews shared that all responses to the RFP's were reviewed by the Historic Preservation Board and that they recommend Clinton Brown Company Architecture, PC for both. No Village funds are involved.

→ Trustee Andrews moved, Trustee Hannan seconded, carried 5/0 to approve and authorize the Mayor to sign contracts with Clinton Brown Company Architecture, PC for Architectural Consultant and Website Creator with the following added to A.1.c. "subject to such revisions as may be required by SHPO."

○ Authorize HPB to apply for a CLG grant to hire a consultant to prepare nominations for the state/national registers for a State Street/Park Avenue historic district, the High Street Cemetery & Hartwell Hall – Trustee Andrews referred to 12/4 work session discussion on this. No Village funds are involved.

→ Trustee Andrews moved, Trustee Blackman seconded, carried 5/0 to authorize the Historic Preservation Board to apply for a CLG grant to hire a consultant to prepare nominations for the state/national registers for a State Street / Park Avenue historic district, the High Street Cemetery and Hartwell Hall. No Village funds are involved.

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○ Approve & authorize Trust Fund agreement re Monika W. Andrews Creative Volunteer Leadership Award – Trustee Andrews referred to 12/4 work session discussion on this.

→ Trustee Blair moved, Trustee Hannan seconded, Trustee Andrews recused himself, carried 4/0/1 to approve and authorize the Mayor and Treasurer to sign the Trust Fund agreement regarding the

Monika W. Andrews Creative Volunteer Leadership Award. No Village funds are involved.

MONIKA W. ANDREWS TRUST

THIS AGREEMENT made this ___ day of _____, 2012, by **WILLIAM G. ANDREWS**, Creator, residing at 46 College Street, Brockport, New York 14420, County of Monroe, State of New York (hereinafter referred to as the “Creator”), and the Village of Brockport for the benefit of the annual recipient of the “Monika W. Andrews Creative Volunteer Leadership Award” (sometimes referred to as the “MWA Award Program”), as further described in the Addendum attached hereto and made a part hereof,.

WITNESSETH:

WHEREAS, the Creator desires to create a trust to hold such property itemized and described in “Exhibit A” attached hereto and made a part hereof, together with such monies, securities and other assets as the Trustee may hereafter at any time hold or acquire hereunder (said monies, securities and other assets, being hereinafter referred to collectively as the “Trust Estate”) for the purposes hereinafter set forth;

WHEREAS, the beneficiary, will be the annual recipient of the “Monika W. Andrews Creative Volunteer Leadership Award” (hereinafter referred to as the “Award Recipient”) as described in the attached Addendum;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Creator agrees to execute such further instruments as shall be necessary to transfer said property to the Trust and the Trustee agrees to hold the Trust Estate as provided for herein:

**ARTICLE I.
GENERAL PROVISIONS**

(A) ADDITIONS TO CORPUS

The Creator may add property from time to time to the Trust Estate.

(B) LAWS OF NEW YORK TO CONTROL

The Creator is currently a resident of the State of New York, and all questions pertaining to the validity, construction, effect and administration of this Agreement shall be determined by and in accordance with the laws of the State of New York. The situs of the property of any trust created hereunder may be maintained in any jurisdiction, in the absolute discretion of the Trustee, and thereafter transferred at any time to any other jurisdiction selected by the Trustee.

(C) NAME OF TRUST:

This Trust shall be known as the “MONIKA W. ANDREWS TRUST” and it shall be sufficient that it be referred to as such in any deed, assignment, bequest or devise.

(D) INCOME BENEFICIARY:

Subject to the terms and conditions of this Agreement, the annual Award Recipient shall be the income beneficiary of this Trust.

(E) REMAINDER BENEFICIARY:

Upon termination of this Trust for any reason, the remaining principal and undistributed income of the trust shall be distributed to the Creator, if then living, or to the estate of the Creator if the Creator is then deceased.

(F) RIGHT TO REVOKE AND AMEND THE TRUST:

This trust is revocable during the lifetime of the Creator. However, the Trustee shall have the right to designate Successor Trustees, Co-Trustees, and successor income beneficiaries in the event that the Trustee discontinues its participation in the MWA Award program or for any other reason in the sole discretion of the Trustee. Any successor income beneficiary must be a community service volunteer in the greater Brockport community.

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(G) TRUSTEE DESIGNATION:

The Creator names the Village of Brockport as Trustee. The term “Trustee” shall also apply to any co-trustees or successor trustees.

**ARTICLE II.
DISTRIBUTION OF INCOME AND PRINCIPAL:**

The Trustee shall hold, manage, invest and reinvest the Trust Estate. In addition, the Trustee, in the Trustee's sole discretion, may disburse from the Trust Estate to or for the benefit of the Award Recipient as determined by the Joint Municipal Selection Committee of the three municipalities, the Village of Brockport, Town of Sweden and Town of Clarkson, or as otherwise directed by Trustee in accordance with the terms of this Agreement in the event the MWA Award Program is terminated by the Trustee, so much of the trust net income as the Trustee deems advisable. Any net income not distributed shall be added to principal, at least annually. Principal shall be distributed only upon termination of the trust and in accordance with the terms of this Agreement.

**ARTICLE III.
DISPOSITION OF TRUST ESTATE UPON CREATOR'S DEMISE**

- (A) After the death of the Creator, the trust will become irrevocable and shall continue to be administered in accordance with the terms of this Agreement until terminated.
- (B) After the death of the Creator, the Trustee may terminate the trust at any time and distribute the principal and any undistributed income to the remainder beneficiaries.

**ARTICLE IV.
PROVISIONS RELATING TO THE TRUST ESTATE**

No interest of any beneficiary in the income or principal of the trust shall be subject to pledge, assignment, sale or transfer in any manner, nor shall any beneficiary have power in any manner to anticipate, charge or encumber his or her interest, nor shall the interest of any beneficiary be liable while in the possession of the Trustee for the debts, contracts, liabilities, engagements or torts of the beneficiary.

**ARTICLE V.
POWERS AND DUTIES OF TRUSTEE**

(A) INVESTMENTS

The Trustee, (including any Successor Trustee) shall have the continuing, absolute, discretionary power to deal with any property, real or personal, held in such Trust(s). Such power may be exercised independently and without the prior or subsequent approval of any court or judicial authority, and no person dealing with such Trustee shall be required to inquire into the propriety of any of the actions of such Trustee. The Trustee shall not be limited to the type and character of investments in which the Trustee may invest the funds of this Trust, so long as the Trustee uses reasonable prudence and judgment in the selection of investments. The Trustee shall have the following general powers, in addition to, and not by way of limitation of, the powers provided by Section 11-1.1 of the New York State Estates, Powers and Trusts Law:

- (1) To retain any property contributed by the Creator, so long as such retention appears advisable, and to exchange any such property for other properties and to retain such items received in exchange. The Trustee may presume that the Creator has confidence in the property owned by the Creator and added to the Trust Estate, and, therefore, no sale thereof shall be made solely in order to diversify investments or to convert said asset to income producing property.
- (2) To retain such property for any period, whether or not the same be of the character permissible for investments by fiduciaries under any applicable law, and without regard to any effect the retention may have upon the diversification of the investments.
- (3) To lend or borrow monies with or without security upon such terms as to rate and maturity and in other respects as the Trustee may deem proper provided no such loans shall be made to a beneficiary of the Trust. All such payment(s), including any Trustee's fees incurred by

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reason of such payments, shall be charged generally against and made from the Trust Estate;

provided, however, that no such payment shall be made from the proceeds of any qualified pension or profit sharing plan received by the Trustee.

(4) To lease any such property beyond the period fixed by statute for leases made by a Trustee and beyond the duration of the Trust Estate or any Trust created hereunder.

(5) To borrow money for any purpose from any source including the Trustee hereunder, and to secure the repayment of any and all amounts so borrowed by mortgage or pledge of any property.

(6) To improve real property and to pay the cost out of principal.

(7) To permit any person having an interest in the income of the trust to occupy real property upon such terms as the trustee deems proper, whether rent free or for the payment of taxes, insurance, maintenance and ordinary repairs, or other expenses.

(8) To invest any part or all of the principal of the Trust Estate in any common trust fund, legal or discretionary, which may be established and operated by and under the control of the Trustee.

(9) To allocate in the Trustee's sole discretion, in whole or in part, to principal or income, all receipts and disbursements for which no express provision is made hereunder, which allocation shall fully protect the Trustee with respect to any action taken or payment made in reliance thereon.

(10) To sell, transfer or exchange any and all Trust assets, real or personal.

(B) ACCOUNTINGS

The Trustee shall have no duty to account to any beneficiary or beneficiaries.

**ARTICLE VI.
PROVISIONS RELATING TO TRUSTEES**

A) BOND

No bond or other security shall be required of the Trustee or Successor Trustee named hereunder.

(B) HOLD HARMLESS

The Trustee shall not be liable or responsible for any loss or damage arising by reason of any act or omission to or by the Trustee or in connection with any activities carried out under this Trust, except for the Trustee's own gross negligence, willful neglect or unlawful act.

**ARTICLE VII.
APPOINTMENT OF SUCCESSOR TRUSTEES**

(A) If the Trustee is dissolved as a municipal corporation, its powers and responsibilities as described and defined above shall devolve upon and be assumed by its successor municipality.

(B) The Creator reserves the right to remove a Trustee upon three (3) days written notice and replace said Trustee with a Successor Trustee.

(C) The Trustee hereunder (whether originally designated herein or appointed as Successor Trustee) shall have the right to resign at any time by giving thirty (30) days notice to that effect to the Creator, or heirs of the Creator if the Creator is deceased, and to the other municipalities participating in the MWA Award Program if such MWA Award Program is still in effect.

**ARTICLE VIII.
PERPETUITIES**

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If under any of the provisions of this Agreement any portion of the trust estate would be held in trust beyond a date twenty-one years after the death of the last survivor of the Creator and the beneficiaries

hereunder in being when this Agreement becomes irrevocable, or such later date permitted by the rule against perpetuities applicable in the State of New York; then, upon such date, the trust of such portion shall terminate and the principal, and any unpaid income thereof, shall be paid and distributed to the person or persons then living who would have been entitled to receive the income therefrom had the trust continued, in the proportions to which they would have been so entitled.

**ARTICLE IX.
MISCELLANEOUS**

(A) HEADINGS AND USAGES

The paragraph headings used are for convenience only and shall not be resorted to for interpretation of this Trust. Wherever the context so requires, the masculine shall include the feminine and neuter and the singular shall include the plural.

(B) VALIDITY OF PROVISIONS

If any portion of this Trust is held to be void or unenforceable, the balance of this Trust shall nevertheless be carried into effect.

- Authorize to apply for a Greater Arts Council of Rochester grant for an historic themed mural – Trustee Blackman referred to 12/4 work session discussion on this. No Village funds are involved. The Walk Bike Brockport Action Group Arts & Aesthetics Committee has agreed to conduct fundraising via an art auction to provide the match for the grant. The mural would be painted on the side of the DPW building. DPW Superintendent Donahue has endorsed it. Trustee Blackman commended the Village’s Grant Writer for their speedy work on this application.

Trustee Andrews said he would like to be involved in the content of the mural so it accurately depicts local history. Trustee Blackman said most definitely.

→ Trustee Blackman moved, Trustee Hannan seconded, carried 5/0 to authorize application to the Arts and Cultural Council for Greater Rochester for a grant of \$2,843 to fund the creation of an historic themed public mural and related educational programming to celebrate the village’s heritage as a canal town.

- Authorize purchase of roof replacement materials for old water building at 36 East Avenue – The Village’s purchasing and procurement policy requires Board approval over a certain dollar amount. DPW Superintendent had provided the Board with 3 quotes from local vendors.

→ Trustee Blackman moved, Trustee Blair seconded, carried 5/0 to authorize the purchase of roof replacement materials for 36 East Avenue at the lowest quote of \$4,493.46 by Stockham Lumber.

Trustee Blackman said when she toured DPW as new liaison, DPW Superintendent Donahue discussed the condition of this roof and that tarps are needed for leaking. The building is used to store equipment and to do some inside work.

Trustee Blair said Department Heads should specify in their requests where exactly (what line) the money would be coming from.

Trustee Blackman said she knows he was planning to utilize a line from the Water Fund.

Mayor Castañeda said DPW Superintendent Donahue will be informed of the authorization for purchase. He will also be directed as to the need for estimates for roof repairs at 49 State Street and reminded as to the need for estimates for electrical improvements for the Emily L. Knapp Museum and Library of Local History as per the request of the Historian and Museum Committee.

VILLAGE BOARD REPORTS:

- Mayor M. Connie Castañeda
 - Lakeside Gala – Mayor Castañeda shared that she attended the annual Lakeside Gala 12/7. It was a great event. The community is fortunate to have such a dedicated hospital.
 - Department Heads Meeting - Mayor Castañeda shared that as Clerk Morelli stated earlier, her monthly meeting with the Department Heads will be utilized to add she, Treasurer Hendricks and Trustee Hannan as well as the new UNYMWCP (workers compensation) administrator and loss control representative from Rose & Kiernan.

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- Building Inspector Part Time - Mayor Castañeda shared that the Search Committee reviewed all 10 applications and narrowed it down to 4 to interview on 12/13 and 12/17. They hope to have a hiring recommendation ready for the next meeting.

- Seymour Library Director - Mayor Castañeda shared that Andrea Tillinghast has submitted her resignation effective 2/28/13. The Library Board has formed a search committee. Clerk Morelli has requested a certificate of eligibles list from Civil Service.

- Association of Monroe County Villages - Mayor Castañeda shared that her next executive meeting with the 10 Mayors is December 20th.

- Happy Holidays - Mayor Castañeda wished everyone Happy Holidays and encouraged shopping local.

- Trustee William G. Andrews

- Lakeside – Trustee Andrews shared that he had recently spent some time in Lakeside Hospital and commended their care.

- Vets Club – Trustee Andrews shared that he recently made a presentation at the Vets Club on campus sculptures.

- Trash Clean Up - Trustee Andrews shared that as part of the Sweden Republic Committee he recently helped collect trash along Brockport-Spencerport Road.

- Billboard Lighting - Trustee Andrews shared that the Board received the requested information from DPW Superintendent Donahue as to the cost associated with having the lights restored to the billboard on Main Street at the railroad overpass. He said they must first have an electrician wire from the riser on the pole to the meter channel. The estimate is \$275. Then in order to have the power restored we will have to have it inspected at \$100. Lastly, the monthly electric bill would be around \$25 for a total cost of \$675.

→ Trustee Andrews moved, Trustee Blair seconded, carried 5/0 to light the billboard as soon as possible, but get another estimate or two besides the one obtained, then use the lower of the estimates.

Trustee Blair understands that the \$275 estimate is within the purchasing policy, but we may be able to do better than always using the same electrician. It is worthwhile to get estimates and be sure we are getting the best price.

- Trustee Margaret B. Blackman

- Trustee Andrews – Trustee Blackman said several colleagues encouraged Trustee Andrews to skip this evening's meeting as he just got released from the hospital. She is glad he is with us.

- SUNY Off Campus Relations Committee - Trustee Blackman shared that she attended this 12/7 meeting. One item discussed was the College's decision to cancel the 2013 Brock-the-Port event. University Police Chief Robert Kehoe shared the 6 year history of the event. The College felt lucky that no extremely serious incidents took place and recognize that many attendees were not even SUNY Brockport students or community members. While there was no alcohol served at the on-campus event, there were many arrests, and of course, an impact on the Village. BSG spent half their budget on it. They are looking into alternatives such as a day at Darien Lake Amusement Park.

- Energy Supply Alternatives - Trustee Blackman shared that the Board has approved peddling and soliciting permits for Just Energy and Gateway Energy to go door to door. She urges the public to look carefully at supply rates and compare them with National Grid and RG&E before making any commitments. They may not necessarily be less expensive.

- Happy Holidays - Trustee Blackman wished everyone Happy Holidays and said the season had a great kick off with the 12/2 holiday parade, tree lighting and fireworks.

- Trustee Kent R. Blair

- Monika Andrews Children's Park – Trustee Blair referred to having discussed at the 12/4 work session the masonry building in this park. Clerk Morelli did a minutes search and found that it was deemed to not be historic in nature and that it was considered for a possible public restroom someday.

Committee discussed it at one time, but concurred.

Trustee Blair said it should be demolished. He said DPW Superintendent Donahue indicated that if it is a light snow plowing season they could get it done this winter.

→ Trustee Blair moved, Trustee Blackman seconded, carried 5/0 to authorize DPW to demolish the masonry building in Monika Andrews Children's Park as soon as possible.

- Parks Committee - Trustee Blair referred to having met with the Parks Committee. If the next fiscal year budget allows, they would like to include monies for some updates and equipment at some of the parks. They would also like to get some updated photos of the parks to add to the website. They are also working on proposed signage for the parks. He said Parks Committee Chair Andrea Perry did some research and learned from the Smoke & Health Coalition that if "smoke free" is added to the signage that names each park, they can get funding assistance for the signage.

Trustee Andrews asked if "alcohol free" could be added. Trustee Blair said it would be on a general sign indicating park hours, rules and regulations.

- Park Avenue Bridge - Trustee Blair said he learned that the weight limits for the Park Avenue Bridge has changed. There is new signage by NYSDOT/NYSCC indicating the capacity. This is a concern to the Fire Department as some of the trucks exceed the capacity. This will need to be taken into consideration when the Board reviews applications to close Main Street for parades or events. Some of the trucks may need to be relocated during such times.

- Brockport Fire District Elections - Trustee Blair said he and a couple of Trustees were a couple of minutes late this evening as they were in line to vote in BFD elections. He said it was nice to see a good turnout and that so many people know each other in our community.

Trustee Blair said the BFD may want to consider expanding the hours of voting as 6pm-9pm was difficult for some people.

- Market Street Fire Hall Parking Lot - Trustee Blair said he and Police Lt. Cuzzupoli visited the parking lot and which parking spaces are meant for municipal parking is ambiguous. The Police Department needs to know how many and which parking spaces are enforceable. The spaces need to be properly marked and posted. Clarification is needed from Village Attorney Leni regarding the MOU signed some months ago.

- Holiday Parade - Trustee Blair said this year's parade was larger and it is anticipated that next year's will be even bigger. He said they will likely need to create a committee to help organize the event. Further, they may not be able to always count on use of the parking lot formerly used for Ryan's Big M. They may have to consider alternatives such as Lakeside. He wished everyone Happy Holidays.

- Trustee Carol L. Hannan

- Holiday Parade – Trustee Hannan thanked Brian Winant and the Stetson Club and Trustee Blair and wife Rachael for coordinating the parade. She was happy to participate and the property owners on Union Street were happily surprised to see many of the parade floats go by their homes.

- Code Review Committee - Trustee Hannan said they are meeting 12/17 since 12/24 is a holiday. They are continuing work on Chapter 36.

- Seymour Library Board - Trustee Hannan said they are meeting next week.

- Ad Hoc Housing Committee – Trustee Hannan said they next meeting in January and that all houses on Union Street have now been photographed. They are continuing work on house histories.

- Project House – Trustee Hannan referred to the Fayette Street house being revitalized by volunteers. The Great-Grandson of Charles Farmer (a former owner of the home) contacted her and well remembers his visits as a young boy and asked for copies of pertinent photos of his family that were found. He said he hopes to visit and would enjoy seeing Farmer related items in

the
Museum.

- Emily L. Knapp Museum & Library of Local History Committee - Trustee Hannan said they are excited to have the SUNY student volunteers return.

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- Happy Holidays - Trustee Hannan wished everyone Happy Holidays and encouraged supporting Village merchants.

Mayor Castañeda said she and Clerk Morelli are looking at the calendar and trying to come up with a date during the holidays when most employees are working to have a breakfast at Village Hall. Trustee Blair suggested a lunch instead of breakfast. Mayor Castañeda said lunch would be fine. They will be in touch with a date.

ADJOURNMENT:

→ At 8:15pm, Trustee Blair moved, Trustee Blackman seconded, carried 5/0 that the meeting be adjourned.

Leslie Ann Morelli, Village Clerk