

INCORPORATED VILLAGE OF PIERMONT
BOARD OF TRUSTEES MEETING
MARCH 20, 2018

Present: Mayor Bruce Tucker, Deputy Mayor Mark Blomquist, Trustee Ivanya Alpert, Trustee Rob Burns, Walter Sevastian, Esq. -Village Attorney and Jennifer DeYorgi-Village Clerk-Treasurer.

Not Present: Trustee Lisa DeFeciani

Mayor Tucker called the meeting to order and led everyone in the Pledge of Allegiance.

Item #1 – 6:30pm Executive Session – Retain Special Counsel to handle Personnel Matter

Trustee Burns made a motion to enter into Executive Session at 6:34pm. The motion was seconded by Trustee Blomquist and so carried with a vote of 4 ayes and 0 nays.

Trustee Burns made a motion to exit Executive Session at 6:50pm. The motion was seconded by Trustee Blomquist and so carried with a vote of 4 ayes and 0 nays.

No Action was taken.

Trustee Burns made a motion to pass a resolution to retain Richard A. Glickel, 2 Crossfield Avenue, Ste. 103, West Nyack, NY 10994 for police department matters at a rate of \$295/hr and \$155/hr for paralegal services plus reasonable disbursements. The motion was seconded by Deputy Mayor Blomquist and so carried with a vote of 4 ayes and 0 nays.

Item #2 – Approval of Minutes

Trustee Burns made a motion to approve the minutes for March 6, 2018. The motion was seconded by Trustee Alpert and so carried with a vote of 4 ayes and 0 nays.

Item #3 – Approval of Warrant

Deputy Mayor Blomquist made a motion to approve Warrant #032018 in the amount of \$102,342.40. The motion was seconded by Trustee Burns and so carried with a vote of 4 ayes and 0 nays.

Item #4 – Department Reports

Department of Public Works - Highway Superintendent Tom Temple gave an update on the water main on Hudson Terrace and stated they are about 75-80% complete with the water main. They are ahead of schedule. Furthermore, we are expecting 6-10 inches of snowfall, winds and flooding tomorrow. After the 'Nor'easter, they will be working on the boardwalk and bulkhead at the end of the Pier. In the past, they find it is better to start the project and not wait for FEMA. Mayor Tucker stated Senator Carlucci would like to meet with them regarding possible funds. Highway Superintendent Tom Temple stated Ken DeGennaro is waiting for Tilcon to get back to him with a start date for Ferry Road. He is hoping April. Mayor Tucker asked for a status on the boat ramp project. Tom Temple stated he is still waiting for Ken DeGennaro to send the diagram to the Department of State for their approval.

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Ken DeGennaro stated he received an updated quote from Tilcon for the Road Resurfacing from what they got last October so they could proceed with the work toward the end of April. The quote is similar to what we had 6 months ago. He will forward the quote to the Board, which can be reviewed and approved as they see fit and they can do the work, probably the beginning of May.

Ken DeGennaro stated he is waiting for the performance bond from the contractor for the Ferry Road Fill project. They had a pre-construction meeting and talked about the redesign to bring the scope down, they are looking to start the work in May. Trustee Burns asked if they are looking to bring the height down? Ken DeGennaro stated in some locations, yes, but not overall. They were thinking more at the start, near the Pavilion would be the more logical point to leave it as is and have the most savings. The Dog Leg is the most critical point and they want to maintain the elevation at that location. Existing is 3 and they are bringing it up to about 5.76. The maximum is about 3 feet of fill.

Ken DeGennaro stated the concrete reclamation from the Tappan Zee Bridge, he spoke with Peter Harkam and he said the DEC told him recycled concrete or salvaged concrete wasn't suitable fill for the Hudson River. They hadn't indicated that to him before. A letter went out to the Village. Trustee Burns asked if they are saying crushed concrete, or the large slabs? Ken DeGennaro stated they talked about ideally, the crushed, which is really broken down smaller pieces of the larger size, about 3-4 feet, anything larger wouldn't suit our needs. Trustee Burns asked if the DEC saying the 50 feet by 12 feet is not suitable? Ken DeGennaro said he is not sure, but he can ask. Trustee Burns wanted to know if it was all concrete, or by size? Ken DeGennaro will speak with them. Trustee Alpert asked if they said why? Ken DeGennaro stated no.

Ken DeGennaro stated at the last meeting Trustee DeFeciani asked about the Community Rating System. We had an application into FEMA for that program and he believes one of the reason's it stalled is because the person in charge of that program is no longer with FEMA. He found the new contact and will send that information into that office again and hopefully that will get streamlined.

Village Attorney asked at the last meeting about the pond and the Analysis with Steve Colazoul. Ken said he is scheduled to meet with him on Friday. Ken DeGennaro asked Village Clerk-Treasurer to send an email to Steve Colazoul stated he is authorized to spend another 2 hours on that.

Ken DeGennaro took the measurements at the Parelli Park boat launch last week and will have the drawing done this week. Mayor Tucker stated the grant expires the end of July.

Mayor Tucker asked if Ken spoke to his surveyor about doing a survey of Flywheel Park and Parking Lot D? A boundary survey for the very large parcel would be a lot of money and we wouldn't need it. He already has a lot of the survey done from work where they did the review for the library in 2005 and the survey for the park as well. They can do the portions abutting and that would probably be all we need. He doesn't have a boundary survey for Lot D, and to do that would be about \$5,000 and they can get topography of the whole area to scale for about \$3,000 Village Attorney asked if that would be enough information to prepare a subdivision plat for the parcels out that? Ken DeGennaro stated they would have to get the whole boundary for that. He will come back with a quote for that whole boundary. He will be at the meeting with Orangetown Sewer District Thursday at 1:00pm at Village Hall.

Building Department – Building Inspector Charles Schaub was not present

Police Department – Chief O'Shea stated they closed the Pier tonight because of the expected weather and will re-open on Thursday if it is safe. They are going to do a Narcan training in the

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Spring. They have had a number of saves already this year. Because of the school shootings that have been happening, they are going to do a drill with the Fire Department.

Parks Department – Dan Sherman, Chairman of the Parks Department was not present.

Fire Department – Chief Don Hardy was not present.

Item #5 - Old Business

Mayor Tucker had no old business to discuss.

Trustee DeFeciani was not present.

Trustee Blomquist had no old business to discuss.

Trustee Alpert had no old business to discuss.

Trustee Burns asked the Village Attorney about the North Shore Walkway. Village Attorney stated we will have to do a resolution to amend the easement agreement of the North Shore Walkway to change the hours of operation from 8am-8pm to 8am-8:30pm during Daylight Savings Time and 8am-5:30pm during standard time. Trustee Burns made a motion to amend the North Shore Walkway Easement Agreement to change the hours of operation. The motion was seconded by Deputy Mayor Blomquist and so carried with a vote of 4 ayes and 0 nays.

Village Clerk Treasurer had no old business to discuss.

Item# 6 New Business

Village Clerk-Treasurer advised the Board of an email she received from Rev. John Vanderover requesting to hold a fundraiser in front of Gerhardt's Saturday, May 5, 2018 and/or possibly a rain date of May 12, 2018. They will sell hanging plants and baked goods. He is asking the Board's permission. She is going to have him come in and fill out a Special Event Application and Economic Development Application. Trustee Alpert asked if they do this every year at the church? Village Clerk-Treasurer stated she was unsure, and if they have, they have never asked about it before.

Trustee DeFeciani was not present.

Trustee Blomquist had no new business to discuss.

Mayor Tucker had no new business to discuss.

Village Attorney had no new business to discuss.

Trustee Alpert had no new business to discuss.

Trustee Burns had no new business to discuss.

Item #7 Other Non-Agenda Items:

None.

Item #8 Review special event application for the Jimmy Hauburger Memorial Foundation to hold an event in Flywheel Park on Saturday, June 2, 2018

Deputy Mayor Blomquist recused himself from this agenda item.

Mr. Richard LaPlacca stated they are having a “Hike for Hope” to raise awareness amongst teens for suicide and bullying. They will meet at Flywheel Park parking lot and hike through Tallman Park, just shy of Rt 9W parking lot by the Market. They are going to have 3 different courses and will congregate at the top of Tallman Park then meet back at Flywheel Park for approximately 4 hours to have some activities, instruction and guest speakers. They are going to also address opioid abuse and awareness. After speaking to Phil Griffin and The View, June 2nd is not available, but June 3rd is and they are thinking of a rain date of June 16th. If they cannot do June 3rd with a rain date of June 16th, he asked if there is any consideration to do this in the Fall? Village Attorney stated this is a new event that has never been held in the Village before. Chief O’Shea needs to review it first. Trustee Burns asked if they are better off going to the Fall where they have a Saturday and a Sunday for a rain date? Richard LaPlacca stated that could work better to have the days back to back and they still have a lot of entities to get together. Trustee Alpert asked if they are going to be in Flywheel Park the entire 4 hours? Richard LaPlacca stated they plan on meeting at Flywheel Park at 10:00am, hike, then come back to the park around 1:00pm. Mayor Tucker stated Chief O’Shea needs to review this application.

Item #9 Presentation of the final draft LWRP for review by Board of Trustees. Submission by consultants of full Environmental Assessment Form (EAF) pursuant to SEQRA. Resolution to establish Village Board as the Lead Agency for this Type 1 action, authorize the circulation of the EAF and draft LWRP to adjacent municipalities and Rockland County and set a public hearing on the draft LWRP

Robert Galvin, Principal of Monarch Planning Group presented the draft LWRP to the Board. He gave two copies to Village Clerk-Treasurer, one for the library and an electronic copy to post online.

Robert Galvin stated back in May of 2017 they said they were going to convert the 44 policies of the original LWRP to 13 policies, which they did. They had to convert back from the 13 to the 44, they were not happy with the conversion. Federal and DOS Counsel suggested to stay at 44 policies. This final draft has the 44 policies. DOS also suggested they incorporate the angry bias legislation into the appendix, the Board isn’t adopting it as this point in time, but it is in there.

Robert Galvin stated they also made some corrections to the historic detail after review with the Historical Society. They also incorporated review and comments of Betsy Blair of the DEC regarding the Piermont Marsh. They have all the original language about phragmites and everything else, in this final draft. In Chapter 198, LWRP Consistency. They incorporated the establishment of a Waterfront Advisory Commission, its composition and its role in the LWRP Review. This is something that the Village Attorney will need to work on, it doesn’t need to be passed immediately, but revisions need to be done before the DOS reviews and approves it.

They do not believe that this SEQR will result in any adverse significant impact, it is not designed for that. It is designed to improve and enhance the LWRP document that we have already and adapt it to local conditions and different scenarios that have occurred over time, addressing sea level rise and incorporating resiliency road map.

Robert Galvin stated the Board can make themselves lead agency tonight and they set a 30-day period comment. They will be here to accept comments and revise the plan with those comments with the Board’s direction. In regard to the GML, he doesn’t believe there will be very many, or any substantive comments. Rockland County Planning will come back with comments. A public

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hearing can be scheduled after the 30-day comment period, or it can be set now in 45 days. After the 30 days, they will need time to incorporate the comments, so he suggested a couple weeks after the 30 days. After the local adoption, they would do the environmental assessment, recommended Part 3, but that is the Board's determination. At the end of this, the Board is also responsible for the Consistency Review. They will fill out the CAF with recommendations for the Board and help go through it.

Village Attorney stated that will all probably be in the same resolution, Environmental Review.

Sylvia Welch stated this process has been mind boggling and intense and Robert has really conducted them through this process in an expeditious and easy manner. The committee has worked incredibly hard to make this a working document, not a bureaucratic answer to what the State requires. She further stated it has been an incredible process and we should be very proud of this document and it gives us a decent road map to base the future.

Trustee Burns stated Robert and his associate walked them through all aspects of it when they were converting from 44 to 13 and back. This document will also help us with funding.

Trustee Burns made a resolution that the Board of Trustees directs its Planning Consultants to initiate work on the LWRP, that the Planning Consultants met with the Steering Committee on many occasions and held public workshops. The proposed LWRP update will be a Type 1 Action Under SEQR. The Village Board is the only entity that has legal jurisdiction to adopt the changes, and therefore would resolve to declare the Board of Trustee as Lead Agency to coordinate the Environmental Review and schedule a Public Hearing on May 15, 2018 at 7:45pm on the proposed action and direct that the LWRP be referred to the Town of Orangetown, Rockland County Department of Planning, Village of Grand View for review and comment pursuant to the General Municipal Law. The motion was seconded by Deputy Mayor Blomquist and so carried with a vote of 4 ayes and 0 nays.

Item #10 8:00pm Continuation of Public Hearing T-Mobile

Village Attorney stated he received a letter from T-Mobile's representative that they are still working on a redesign of the proposed antennas for 1-10 Roundhouse Road and they asked that the matter be put over.

Trustee Alpert made a motion to adjourn to continue the Public Hearing of T-Mobile's application for site plan development review of antennas at 1-10 Roundhouse Road to April 17, 2018 at 8:00pm. The motion was seconded by Trustee Blomquist and so carried with a vote of 4 ayes and 0 nays.

Item #11 Review request to amend Special Permit for Pier 701 to allow back ground music on the rear deck

Mayor Tucker recused himself.

Village Attorney stated in the Village Code we have an annual renewal of Special Permits, if the special permit itself calls for that, which this special permit does. Renewal of special permits under our code provisions are essentially administrative in nature, if there are no pending, outstanding violations of conditions in the permit, the building inspector can just renew the special permit and most are don't that way. However, if you are seeking a change in your permit, that requires an amendment to the special permit, which requires a public hearing. The Board cannot rule tonight, just schedule a public hearing.

Mr. Whitton reminded the Board that last year they removed the background music and he is requesting to have it back. He is not requesting live music. Village Attorney stated the special permit has a condition there is no music outside. He wants to change that condition, which is why it is an amendment and not a renewal. Dennis is seeking background music, a radio playing at low volume. He put up a much higher fence as was asked of him last year. He met with the sound guy and they moved speakers around, moved them up and separated them into zones so things can be shut off. He stated there was not one violation all last summer. Village Attorney suggested when he comes to the public hearing, he should have everything, a full presentation to show where he wants speakers, what kind of system he has, or if he has anyone that he wants to come and testify.

Trustee Burns made a motion to schedule a Public Hearing to amend the special permit for Pier 701 on April 3, 2018 at 8:00pm. The motion was seconded by Trustee Alpert and so carried with a vote of 4 ayes and 0 nays.

Item #12 Review Piermont Chamber of Commerce proposal for new signage on Route 9W

Laura Strauss was before the Board with an update and gave the Board a handout. She stated they were able to get permission of DOT to replace 3 signs on 9W. The proposal is to change out 3 signs that say, "Business District". There are two when driving South and one when driving North. They are proposing to change the wordage from "Business District" to "Historic Downtown Piermont". They applied for the Economic Development line item last round and that was \$6,000.00. They would like to request \$1,000.00 of the \$6,000.00 for the 3 signs. They would ask DPW to replace the signs. All the specs are what the DOT outlined and they are working with a sign company who works with the DOT. This replacement sign is the same size as the current sign.

Trustee Burns made a motion to approve \$1,000.00 of the \$6,000.00 awarded funds from Economic Development Fund. The motion was seconded by Trustee Alpert and so carried with a vote of 4 ayes and 0 nays.

Item #13 Review attorney draft agreement with Altice and schedule a public hearing

The Village Attorney informed the Board we have franchise agreement with Cable TV providers in the Village, Verizon and Cablevision. What Cablevision has asked for in renewing the franchise agreement is to essentially take Verizon's existing agreement and insert Cablevision and Altice where it says Verizon. They have, what they call, a level playing field with Verizon, so it will be very similar with what is already in place with Verizon. There were a couple issues that he went back and forth with them on from a revenue standpoint. The Village charges a Franchise Fee, 5% and they the question is what is it paid on, which relates to the definition of gross revenue and changes overtime when the products offered by cable providers change and what we have asked to be put in the definition of gross revenue in this go around is video on demand cable service over the cable system. This is the one difference from the Verizon agreement. This used to be a huge process to renew the franchise agreements, it is much simpler now. He will email the agreement to the Board members tomorrow.

Trustee Alpert made a motion to schedule a Public Hearing for renewal of the franchise of Cablevision of Ramapo/Rockland, LLC on April 3, 2018 at 7:45pm. The motion was seconded by Trustee Burns and so carried with a vote of 4 ayes and 0 nays.

Item #14 Review and accept resolution to enter into contract with the Realterm Energy for LED Street Light Conversion

Village Attorney reminded the Board they had previously adopted resolutions in relation to existing grants and hired a green coordinator and part of the process was going LED with the street lights. This agreement is an agreement with the firm that will render us professional services relative to the conversion. They do it for a fee that is essentially based on two things. One, the number of street lights they examine, and two, \$75/hr if they consult with us in negotiating a purchase price if we acquire the street lights from the utility. The agreement is forwarded to him for review, he has no problem with the agreement, mainly because it has good indemnification language and the ability for the Village to get out on 30 days' notice. If we did get out, we just pay them on a per-light cost for the work they have done so far at a rate of \$48.40, through the agreement is \$60.60 per street light.

Mayor Tucker requested this agenda item be moved to April 3, 2018 as he is waiting for another bidder. In the meantime, Tom Temple has sent the letter to O&R to get the pricing.

Item #15 Review request from Clearwater to dock in Piermont, arriving on Saturday, August 11th and departing on Sunday, August 12, 2018

Trustee Alpert made a motion to grant permission for Clearwater to dock in Piermont on Saturday, August 11, 2018 through Sunday, August 12, 2018. The motion was seconded by Trustee Burns and so carried with a vote of 4 ayes and 0 nays.

Item #16 Public Comment

Maureen Pelagrini – Resident of Sparkill. Stated on December 27, 2015, her daughter parked her car on Ferdon Avenue to visit the Lepori family. She parked and had the parking signal on the side. At some point in the evening, a gentleman came by and totaled her car and moved it about 20 feet. His insurance took total liability for it and paid the claim. A year and three months after the accident (March of 2017), he returned a summons to her husband, herself and her daughter (the driver), suing them for bodily injury. Officer Holihan wrote in his report said she was legally parked at 321 Ferdon Avenue, which is the sidewalk side of Ferdon Avenue. Chief O'Shea was the reviewer of the report. The Plaintiff's attorney is saying the bi-laws of Piermont are confusing and her daughter was illegally parked, even though the police report states she was legally parked. There have been depositions. They are now requiring a letter or something from Piermont stating she was legally parked. The most important issue is what side of the Ferdon is north and what side is South and where is it legal and not legal to park. The plaintiff wants explanation of the statute. They are saying she is not parked legally. The Plaintiff Attorneys are only going by Piermont Statute, not what the police report says, and it is very confusing as to the parking on Ferdon Avenue.

Mayor Tucker asked if her attorney came and looked at the accident scene? Ms. Pelagrini stated they had an investigator come.

Trustee Burns stated, as a practicing trial attorney for 50 years and doing that every day of his life for 50 years, number 1, it is the way the statute was in 2015, not the way the statute is now, they would have to research and make sure the statute was in effect on that date. The statute speaks for itself. Ms. Pelagrini stated it is very confusing.

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Village Attorney stated he received a letter today from the insurance company, Elizabeth Gallich, asking for information. He is happy to reach out to her, but he is not sure he will be able to satisfy her. Ms. Pelagrini stated they are looking for an affidavit or letter from the Village saying that side of Ferdon Avenue is legal to park on. Village Attorney stated the statute is what it is and probably nothing from the Village to explain what it says will be helpful. They requested to clarify via map and letter where on Ferdon Ave where it is legal and illegal to park. He is not sure if the Village can prepare such a document in preparation of litigation, but he can talk to them. Ms. Pelagrini asked if the Board can look into the statute and see why it is confusing?

Trustee Burns stated the statute has been on the books for a long time and has never been confusing. A Court can take Judicial Notice of what the statute is and that is it. Ms. Pelagrini stated if it is wrong, the signs are wrong.

Village Attorney stated what it says is what it says, and it is not for this Board to determine, it is probably the Judge. Ms. Pelagrini stated the Judge wouldn't know unless Piermont explains what Piermont's statute is. Trustee Burns stated that is not the way it works. Village Attorney stated he will speak to the attorney and see what she wants and why she thinks she wants it. The Village is not going to be able to provide clarity of the statute to the lawyers or the Court, the statute is what it is. Maybe they need to look at the roadway, but he doesn't think the Village is going to generate anything that is going to give what she wants.

Deputy Mayor Blomquist stated the statutes pre-date anybody on this Board and we have no way of interpreting what the intent was. Ms. Pelagrini asked who does interpret them? The Board stated the Judge and Jury.

Francis Brooke – March 2, 2018 will mark one year of a police report being written against him by Chief O'Shea and the Piermont Police Department. He is once again coming to this Board for the release of report Nos. 73470 and 73472. He has been in consultation with his Attorney Brian Glass for the entire year regarding this matter. At this time, his attorney has indicated to him that he has compiled at least 20 billable hours on this matter, at a rate of \$500/hr which amounts to \$10,000 in legal fees. At this time, he would like to make the Board aware that on December 13, 2017, Governor Cuomo signed into law a bill that requires that Courts shall assess reasonable legal costs in FOIL cases in which a person substantially prevail and the Court finds there is no reasonable basis for denying access to a record. He believes the Village does not have any reasonable basis for the denial of these reports and as such, he will be coming to each Board meeting requesting the release of these reports. In order to protect his legal rights, he will be consulting with his attorney prior to each appearance.

Village Attorney told Mr. Brooke he submitted two FOIL requests. One FOIL request was granted to some extent and it was denied for other documents for a reason that was stated in a resolution. He resubmitted a FOIL request, it was denied for reasons that were stated in a resolution. He further told him that if he thinks he has a legal remedy, this is America, he can assert that legal remedy. But for him to come here and say he is going to sue the Village, etc.

Mr. Brooke stated he never said he would sue this Board.

Village Attorney stated he can submit as many FOIL requests as he wants, we process each one in accordance with the law. It is in writing, so he can take that and consult with his attorney with it.

Bob Samuels – Asked about the Pier closure this summer and lowering the speed limit on the Pier. Mayor Tucker stated he was supposed to meet with the DEC March 7, 2018 snowstorm and the meeting was rescheduled to tomorrow, so chances are they are not meeting then, maybe

Friday or next week. That is what is holding this up, nothing has changed, he intends to close the Pier to vehicular traffic from Memorial Day to Labor Day on weekends. He is also in discussions with Chief O'Shea about the lowering of the speed limit on the Pier.

Item #17 Adjournment

Trustee Alpert made a motion at 8:36pm to adjourn. The motion was seconded by Trustee Blomquist and so carried with a vote of 4 ayes and 0 nays.

Respectfully submitted,

Jennifer DeYorgi
Clerk-Treasurer