

VILLAGE OF CORNWALL-ON-HUDSON BOARD OF TRUSTEES

May 18, 2009

The regular meeting of the Board of Trustees was called to order at 7:30 P.M., with the Pledge of Allegiance, at 325 Hudson St., Cornwall-on-Hudson, N.Y.

The following Board Members were in attendance:

Mayor Joseph J. Gross  
Trustee Barbara J. Gosda  
Trustee Mark J. Edsall  
Trustee Richard Gioia  
Trustee Douglas Vatter

Also present were: DPW Superintendent David Halvorsen, Water Superintendent Robert June, Deputy Village Attorney Jeffrey Sculley, and Village Clerk Jeanne Mahoney.

**PUBLIC HEARING – AMENDING HOURS OF CORNWALL LANDING AND PAGENSTECHER PARK**

Mayor Gross polled the Board and all are in favor of extending park hours until 10:00 PM from Memorial Day to Labor Day.

Having no one from the public speak for or against said plan, Trustee Edsall made a motion to close the Hearing at 7:36 PM which was seconded by Trustee Vatter and carried by a vote of 5 Ayes and 0 Nays.

Trustee Edsall moved for the acceptance of the April 20, 2009 Regular Meeting Minutes as presented, on a motion seconded by Trustee Gosda and carried by a vote of 5 ayes and 0 nays.

Trustee Edsall moved for the acceptance of the May 11, 2009 Special Meeting Minutes as amended, on a motion seconded by Trustee Gosda and carried by a vote of 5 ayes and 0 nays.

Trustee Vatter moved for the acceptance of the May 16, 2009 Special Meeting Minutes as presented, on a motion seconded by Trustee Gosda and carried by a vote of 5 ayes and 0 nays.

**TREASURER’S REPORT**

Mayor Gross stated that a treasurer’s report has been prepared through April and distributed to the Village Board for review.

The open utility balances report for the end of April read as follows:

Village water, sewer, garbage & penalties	\$ 178,975.84
Town water & penalties	212,899.80

Which included 2 finals/adjustments for the Village and 1 for the Town.

The following claims were approved for payment:

General Fund claims in the amount of	\$248,009.66
Water Fund claims in the amount of	172,234.80
Sewer Fund claims in the amount of	5,305.20
Trust & Agency claims in the amount of	1,011.51

## **COMMITTEE REPORTS**

Trees and Beautification – Trustee Gosda stated that White Pine and Black Walnut trees have been replaced thanks to Black Rock Consortium for the Hudson/Fulton Celebration. In addition, the DPW is making improvements on Dock Hill Road to the shoulder and walkway as well as Pagenstecher Park.

## **DEPARTMENT REPORTS**

The Water Department reported an average daily production of 1.021 million gallons with all bacteria samples passing N.Y.S. Standards. The required monthly and quarterly samples were collected (a total of 49). It was also reported that 56 utility locations were made, 27 meters were repaired or replaced, 2 special readings were taken, and meter reading was completed. In addition to routine maintenance, 9 curb boxes were repaired, 1 curb valve box was repaired, 1 water meter pit was repaired, and 13 fire hydrants were painted. Further, safety training was completed, water leak sites were top soiled, spring hydrant flushing has begun, and spring clean up of department facilities has started.

Water Superintendent June recently attended the annual NYS Rural Water Works Conference in Saratoga. He met with a representative from NY Power Authority there, and is now making arrangements for an energy audit of our facilities.

The Department of Public Works reported garbage collection 4 times weekly, weekly yard waste completion, weekly mowing of Village owned properties, installation of signs on Hudson St., and Bayview Ave., repair of sign on Mountain Rd., repair of 3 catch basins, blacktop patching on Shore Road and Park, spring bulk clean up, repairs to 1996 garbage truck, 1989 dump truck, 1999 one ton truck, and 1988 for tractor (mower), blacktop sewer repair site on Mountain Rd., gutter cleaning on Mountain Rd and Deer Hill Rd., debris cleaning of 4 pipes under Mountain Rd., inspection of 3 onsite sewer repairs, tree trimming at Donahue Memorial Park, installation of new flags at Village Hall and Donahue Park, sweeping of Village streets, removal of dead trees from triangle and Park, tree planting at Park, roadside mowing, paint striping at Donahue Park and Village Hall, routine maintenance and repairs to Village owned vehicles (DPW, fire water, police), installation of rearview mirror on 2003 garbage truck, and completion of repairs adjacent to Flynn property on Andrews St.

Trustee Gosda made a motion authorizing DPW Superintendent Halvorsen and another DPW employee to attend the annual CDL training course, which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

The Building Inspector/Code Enforcement Office reported 32 site inspections, 1 fire inspection, 8 building permits, 2 property maintenance violations, 1 unregistered vehicle violation, and 5 certificate of occupancy/certificate of compliance were issued.

The Police Department reported 13 COVAC assists; 8 calls were covered for/assisted to Town Police; 12 responses to burglar alarms; 4 E-911 hang-ups; 2 domestic incidents; 3 crimes were committed; 5 non criminal activities were reported; 4 arrests were made; 5 vehicle lockouts, 6 accidents were

investigated; 76 moving violations; 52 vehicle and traffic stops with warning; and 26 parking tickets were issued. Total patrol miles = 2,986, not including mileage on Chief's vehicle.

In addition, it was reported that investigation of four (4) active open cases continues.

It was further reported that Officers Terwilliger, Nye, Lug, Krause, Hofmann, and Bailey attended the annual STOP-DWI training conference.

The Fire Department reported 52 events, including 12 emergency medical service (EMS) calls, for a total of 510.5 volunteer man hours.

## **CORRESPONDENCE**

Mayor Gross is in receipt of a letter of resignation from Horst Hoffmann, Chairman of the Zoning Board. Trustee Edsall made a motion to accept the resignation, with regret, which was seconded by Trustee Gosda and carried by a vote of 5 ayes and 0 nays.

Mayor Gross is in receipt of an invitation from Metro-North Railroad (MTA) to their second Open House on June 1<sup>st</sup> from 4-8:00 PM in Newburgh.

Mayor Gross is in receipt of a letter from Assemblywoman Nancy Calhoun providing information relative to municipal "listed property".

Mayor Gross is in receipt of a letter dated May 14, 2009 from Anthony Missere providing comments on the draft Comprehensive Plan.

Mayor Gross is in receipt of a letter dated May 15, 2009 from Time Warner Cable regarding programming changes.

Mayor Gross is in receipt of copy of an email from James Lupi regarding permit parking enforcement at Donahue Memorial Park.

Mayor Gross is in receipt of a letter dated May 18, 2009 from Thomas Gordon of Braden Place regarding the need for both sides on this issue to work together in developing a new view preservation plan.

Mayor Gross is in receipt of a memo from John Czamanske of the Orange County Transportation Council regarding the highway and bridge stimulus project.

Mayor Gross is in receipt of a letter dated April 28, 2009 from Tara Sullivan of Hudson-Fulton-Champlain Quadricentennial committee declining our request for grant money.

Mayor Gross is in receipt of a letter from Federal Emergency Management Agency (FEMA) regarding flood insurance in the Village.

Mayor Gross is in receipt of a fax from United States Military Academy regarding practice rounds for their Memorial Day ceremony.

Mayor Gross is in receipt of a letter dated April 21, 2009 from Assemblywoman Nancy Calhoun announcing a CHIPS allotment of \$77,221.00 for the Village.

Mayor Gross is in receipt of a note from Kathy Ferraro regarding the beauty of the Village in spring time with blooming trees.

Mayor Gross is in receipt of a thank you note from Darlene Reisling, Pastor of United Methodist Church for use of Donahue Memorial Park for a recent church service.

Mayor Gross is in receipt of an email from Frances Dunwell, Hudson River Estuary Coordinator regarding a summit meeting on June 17, 2009.

## **PUBLIC COMMENT**

Mary Donahue of 42 Bayview Avenue requested status on the letter from the Bandstand Committee to the Village Board regarding donations. Mayor Gross replied that he will discuss this letter with the Deputy Treasurer.

Virginia Gordon of 3 Braden Place asked if there is a law restricting parking of boats and RV's on property. Discussion followed regarding an attempt by the Board to place restrictions back in the 1990's which was never adopted.

In addition, she stated that neighbors have approached her to remove trees on her property that obstructed their river views. Although, she did not want to remove the trees, she did so in order to be a "good neighbor".

Peter Neuman of Braden Place stated that he agrees with the opinions expressed tonight by both Mr. & Mrs. Gordon. He wanted to clarify that he offered to top trees on Mr. Degroat's property at his own expense. A lawsuit was brought only after several meetings were held with no agreement reached. It was settled over one year ago with certain trees to be topped. In return, with permission from another property owner, additional trees were topped to improve Mr. Degroat's view at Mr. Neuman's expense as well.

Barbara Farabaugh of 24 Cornwall Avenue asked when the Board will hold public discussion regarding the View Preservation Law. She is against the current law. In addition, she stated that tree topping is not good, it kills the roots.

Joe Suto of Washington Street stated that he spoke with the Orange County Health Department and they highly recommend there be sanitizing equipment at Donahue Memorial park to protect against infectious diseases.

In addition, he asked if Trustee Gioia had new information about installation of composting toilets at the Park. Trustee Gioia replied that the item was referred to the Riverfront Revitalization Committee for consideration in their park improvement design.

Further he asked Trustee Gosda about creating a "park recreation fund" to keep money generated through park sticker and group use fees. Trustee Gosda replied that during this year's budget preparation, this item was discussed but is not possible at this time.

Carol O'Keefe of 2 Payson Road asked for status of old barns on Burns and Whalen property. Mayor Gross responded that the person who was spearheading this item through the Historical Society has moved.

Emily Thomas of Hudson Street stated that if the Village wishes to place sanitizing equipment at the park, she suggests that we not use the antibiotic kinds. They are detrimental to the environment.

## **OLD BUSINESS**

### **WATERFRONT REVITALIZATION COMMITTEE REPORT**

Committee Member Andrew Maroney stated that committee is moving ahead and will meet with representatives of the top 3 companies in the second week of June. A special committee meeting will be held on May 28<sup>th</sup> to formulate a formal procedure plan for these interviews.

### **HUDSON FULTON COMMITTEE**

Trustee Gosda stated that the Hudson Fulton River Day agenda is ready. It will begin at 11:00 AM and finish with the relay flotilla at 5:00 PM. The "River Journey" sculpture exhibit will begin on June 20<sup>th</sup> and continue through August 8<sup>th</sup> at the south end of Donahue Memorial Park. In addition, the "Silent Walks on the Half Moon" will begin on June 29<sup>th</sup> at the Stone Pillars on Mountain Road.

### **DRAFT COMPREHENSIVE PLAN**

Mayor Gross stated that a meeting of the Village, Planning and Zoning Boards along with Comprehensive Plan Committee took place on May 16<sup>th</sup>. We will be moving forward with comments made. He will contact the Orange County Planning Department to see what type of assistance is available.

### **HYDRO-ELECTRIC FEASIBILITY PROPOSAL**

Trustee Gioia stated that a feasibility study is needed before we can seek out any funding opportunities.

### **PROPOSED LOCAL LAW - AMENDING HOURS OF CORNWALL LANDING AND PAGENSTECHER PARK/ RESOLUTION OF ADOPTION**

Trustee Edsall introduced the following resolution and moved for its adoption.

**WHEREAS**, an Introductory local law entitled "TO AMEND THE HOURS OF OPERATION OF CORNWALL LANDING AND PAGENSTECHER PARK" was introduced before the Board of Trustees of the Village of Cornwall-on-Hudson on April 6, 2009 and upon notice duly published and posted, a hearing was held on May 18, 2009 before the Board of Trustees; and

**WHEREAS**, public discussion was heard at such hearing concerning the merits and environmental significance of said introductory local law;

**NOW, THEREFORE, BE IT RESOLVED**, that the adoption of the Introductory local law is hereby determined not to have a significant effect on the environment.

**BE IT FURTHER RESOLVED**, that the Introductory Local Law entitled "TO AMEND THE HOURS OF OPERATION OF CORNWALL LANDING AND PAGENSTECHER PARK" of the Village of Cornwall-on-Hudson be and hereby is adopted as Local Law #1 of 2009 of the Village of Cornwall-on-Hudson on May 18, 2009.

The foregoing resolution was seconded by Trustee Gioia and carried by a vote of 5 ayes and 0 nays.

#### FLOOD DAMAGE PREVENTION – DRAFT LOCAL LAW

Deputy Village Attorney Sculley stated that the Village Board has already voted not to adopt the optional amendments proposed by the NYS DEC. The final draft law was sent to the NYS DEC for review and comments.

Trustee Edsall thanked Mr. Sculley for his good work in providing the Board with “pros and cons” of the proposed optional amendments. The hardships that would have been imposed upon the Village and its homeowners far outweighed any potential benefit.

#### MAPLE AVENUE PROPERTY

Mayor Gross stated that he prepared a draft letter for potential real estate brokers and sent to counsel for review. Discussion followed.

#### DRAFT TRANSITIONAL DUTY POLICY

After some discussion, Mayor Gross tabled this item until the next work session in order to allow the Board sufficient time to review the revised draft policy.

#### SUMMER PLAYGROUND

Trustee Gosda stated that Summer Playground Director Dylan Reitenbach has been hard at work completing the necessary application paperwork for the County. She and Trustee Gioia will meet to discuss projected enrollment numbers and number of counselors needed.

#### BOULDER INSCRIPTION

Mayor Gross read the proposed inscription for the boulder.

After some discussion, Trustee Gioia made a motion to adopt the inscription as read which was seconded by Trustee Gosda and upon a vote of 3 ayes (Gross, Gosda, Gioia) and 2 nays (Edsall, Vatter), the motion was carried.

#### NEW BUSINESS

#### BUDGET REVISION

Clerk Mahoney stated that a check in the amount of \$1,250.00 was received this week from the State for the Village Square Improvements Project. To date, \$860.00 had been spent on the municipal parking lot sign. A portion of this grant money needs to be used to reimburse our budget.

Trustee Vatter made a motion to authorize a budget revision to move \$860.00 from A3089 (Revenue – State Aid Other) to A8510.4 (Expenditure – Beautification and Tree Service) which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

#### SURPLUS DPW VEHICLE – SET BID DATE

Trustee Edsall made a motion to declare the 1983 Trojan Front End Loader surplus and set a bid opening date for June 4, 2009 at 2:00 which was seconded by Trustee Vatter and carried by a vote of 5 ayes and 0 nays.

#### HORST HOFFMANN – LETTER OF RESIGNATION

Mayor Gross stated that this item was addressed earlier in tonight's agenda.

#### ZBA APPOINTMENTS

Trustee Gosda made a motion to appoint Peter Osinski Chairman of the Zoning Board which was seconded by Trustee Gioia and carried by a vote of 5 ayes and 0 nays.

Trustee Gosda made a motion to appoint Michael DeFranco to the Zoning Board serving out the balance of Mr. Hoffmann's term which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

#### WATER DEPARTMENT – SUMMER HELP APPOINTMENT

Upon the recommendation of Water Superintendent June, Trustee Vatter made a motion to appoint James Edsall to the Water Department as part-time summer help, 20 hours per week and at the same rate of pay as last year. The motion was seconded by Trustee Gosda and carried by a vote of 4 ayes, 0 nays and 1 abstain (Edsall).

#### CHANGE OF ZONE DISTRICT REQUEST – 9 RIVER AVENUE

Mayor Gross invited Michael O'Connor, attorney for Mr. Missere and Ms. Costa, to speak to the Board.

Mr. O'Connor stated that his clients went before the planning board in 2007 for site plan approval. During this application process, the question of the correct zoning of this property was raised. They went to the zoning board on two different occasions and it was determined that 9 River Avenue was in the SR District and not in the CBS District. An Article 78 proceeding was brought, and the court upheld that decision. He is now asking that the Village Board refer his clients to the planning board for a change of zone feasibility study. Lengthy discussion followed.

Trustee Edsall suggested his clients request zoning board relief for a specific use (restaurant) on that lot before the Village Board considers moving the CBS District line. He stated that moving the line would need to have the impact of all potential uses considered which would appear to have a greater impact than expanding an existing use across the zone line to an adjoining building. The zoning board could impose conditions regarding the operation that would be consistent with the current restaurant

operational restrictions from site plan approval, thereby minimizing the impact. He felt that, personally, the impact of the narrow scope variance was preferable to a full zone change for the property. He would like the zoning board to be aware of these discussions when they consider the specific relief for the restaurant use, with a condition that the lots be combined to a single lot and single site plan. With the zoning board relief the applicant would be referred to the planning board.

Trustee Edsall made a motion to table action on this matter, and share minutes of this meeting with the zoning board should an application be put before them which was seconded by Trustee Vatter and carried by a vote of 5 ayes and 0 nays.

#### DOG CONTROL

Mayor Gross stated that Deputy Village Attorney Sculley has been asked to draft an amendment to our existing code to address the problem with animal waste on public/private property, and enhance the available penalties.

#### MTA PAYROLL TAX RESOLUTION

Trustee Edsall introduced the following resolution and moved for its adoption.

**WHEREAS**, the Commission on MTA Financing (the “Ravitch Commission”) proposed the creation of a new “mobility tax” to be applied in all 12 counties in the MTA region, to be imposed on all employers (and self-employed individuals) at a rate of 1/3 of 1% of all wages; and

**WHEREAS**, the recommendation has now been enacted as the Metropolitan Commuter Transportation Mobility Tax (MCTMT); and

**WHEREAS**, the tax is applicable to certain businesses, not-for-profit employers and governments whose employees pay into Medicare (FICA), including the Village, and is effective retroactively as of March 1, 2009; and

**WHEREAS**, the Commission’s Report estimated the new tax will generate \$1.5 Billion annually for the MTA; and

**WHEREAS**, residents, employers and property owners of the Village of Cornwall-On-Hudson already contribute to 5 other MTA revenue impositions (sales tax, petroleum business tax, mortgage recording tax, telephone bill surcharge and maintenance of Metro North parking stations through charges to the County); and

**WHEREAS**, in computing yet another tax in support of MTA, the Village of Cornwall-On-Hudson Board of Trustees wishes to clearly state that “one size does not fit all”; and

**WHEREAS**, the Village of Cornwall-On-Hudson and Orange County are receiving minimal benefit from the MTA and have limited representation on the Board of the MTA; and

**WHEREAS**, while the Board of Trustees of the Village of Cornwall-on-Hudson appreciates that the MTA in cooperation with the Port Authority has initiated a planning study to identify and assess transit solutions to improve mobility and accessibility in the West of Hudson region and to Stewart International Airport from the surrounding regions, Village businesses which will be subject to the

mobility tax are unlikely to be the businesses whose employees use the MTA's services to get to work or otherwise as there is presently limited access to MTA services in Orange County; and

**WHEREAS**, a fairer allocation of the burden of sustaining the operations and capital improvements of the MTA would be one based upon use and access to services actually rendered than through the mobility tax; and

**WHEREAS**, the imposition of an additional tax burden on Village taxpayers and local businesses in this period of economic stress will add additional pressures and likely cause further deleterious effects and loss of jobs; and

**WHEREAS**, based upon its experiences and upon review and consideration of these matters of great importance to the continuing viability and competitiveness of the State of New York, the Board of Trustees of the Village of Cornwall-on-Hudson finds that the MTA regional mobility tax is a mandate placing unfair and undue financial burdens on local taxpayers.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Trustees of the Village of Cornwall-on-Hudson in its capacity as governing body of the Village, does hereby oppose the enactment of the Metropolitan Commuter Transportation Mobility Tax and its imposition on employers located in Orange County; and

**BE IT FURTHER RESOLVED**, that certified copies of this Resolution be delivered by the Town Clerk to the Hon. David A. Paterson, Governor, the Hon. William J. Larkin, Jr., Senator for the 39<sup>TH</sup> District, the Hon. Nancy Calhoun, Assemblywoman for the 96<sup>TH</sup> District; that copies also be delivered to the Senate and Assembly leadership, including the Hon. Malcolm A. Smith, Temporary President and Majority Leader and Senator for the 14<sup>th</sup> Senate District, the Hon. Dean G. Skelos, Minority Leader and Senator for the 9<sup>th</sup> Senate District, the Hon. Sheldon Silver, Assembly Speaker and Assemblyman for the 64<sup>th</sup> Assembly District, the Hon. Brian M. Kolb, Minority Leader and Assemblyman for the 129<sup>th</sup> Assembly District; and, that a copy of this Resolution be provided to the MTA; and

**BE IT FURTHER RESOLVED**, that the aforesaid resolutions shall take effect immediately.

The foregoing resolution was seconded by Trustee Gosda and carried by a vote of 5 ayes and 0 nays.

#### PUBLIC COMMENT

Mary Donahue of 42 Bayview Avenue wanted to thank Trustee Gosda for her hard work in planning Hudson Fulton Day. She then asked if her agenda for speakers was closed. Trustee Gosda replied that it was not.

Having concluded the business set before them, Trustee Gioia moved to adjourn into Executive Session in order to discuss a DPW personnel matter and related litigation, which was seconded by Trustee Gosda and upon a vote of 5 Ayes and 0 Nays, the meeting was adjourned at 9:30 PM.

The meeting was reconvened at 10:00 PM.

## DPW SENIOR MEO POSITION

Trustee Vatter made a motion authorizing DPW Superintendent Halvorsen to post a promotion position for Senior Equipment Operator which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

## SPECIAL COUNSEL APPOINTMENT

The Board, by unanimous vote, moved to authorize the Mayor to retain the services of the law firm Roemer, Wallens & Mineaux, LLP as special legal counsel regarding a personnel matter.

Having concluded the business set before them, Trustee Gioia moved to adjourn the meeting, which was seconded by Trustee Gosda and upon a vote of 5 Ayes and 0 Nays, the meeting was adjourned at 10:05 PM.