

VILLAGE OF CORNWALL-ON-HUDSON BOARD OF TRUSTEES

February 22, 2010

The regular meeting of the Board of Trustees was called to order at 6:40 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 Gosda
Trustee Mark J. Edsall
Trustee Richard Gioia
Trustee Douglas Vatter

Also present were: Water Superintendent Robert June, and Village Clerk Jeanne Mahoney.

Trustee Gosda made a motion to adjourn into Executive Session to discuss a police personnel matter which was seconded by Trustee Gioia, and upon a vote of 5 ayes and 0 nays, the meeting was adjourned at 6:42 PM.

Trustee Vatter made a motion to reconvene the meeting at 7:15 PM which was seconded by Trustee Gosda and carried on a vote of 5 ayes and 0 nays.

The following Board Members were in attendance:

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

Also present were: Water Superintendent Robert June, DPW Superintendent David Halvorsen, SKEC #2 Fire Chief Jeffrey Armitage, P.O. Michael Lug. Code Enforcement Officer/Building Inspector Bruce Yancewicz, Sr., Deputy Village Attorney Jeffrey Sculley, and Village Clerk Jeanne Mahoney.

Trustee Vatter moved for the acceptance of the January 21, 2010 Regular Meeting Minutes as written, on a motion seconded by Trustee Gosda, the minutes were approved 5 ayes and 0 nays.

Trustee Edsall moved for the acceptance of the January 25, 2010 Special Meeting Minutes as corrected, 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 January and distributed to the Village Board for review.

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

Village water, sewer, garbage & penalties	\$ 58,203.90
Town water & penalties	315,672.78

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

The following claims were approved for payment:
General Fund claims in the amount of \$ 150,215.31
Water Fund claims in the amount of 243,458.54
Sewer Fund claims in the amount of 4,507.25
Trust & Agency claims in the amount of 1,702.97

COMMITTEE REPORTS

Water – Trustee Gosda reported that delinquent water customers owe approximately \$150,000. Since the Village has a critical cash flow problem, she wants the Board to be “more aggressive” in collection efforts. Currently there are ten (10) open utility agreements which allow customers, carrying a large balance, to pay over a period of time without incurring additional penalties. She suggests either discontinuance of these agreements, only making them available in “hardship cases”, or shortening the repayment time period. In addition, she would like the Board to consider acceptance of credit card payments. Discussion followed.

Trustee Edsall made a motion to set as policy that all future requests for utility agreements, with reason, be brought to the Village Board for consideration and not exceed a twelve (12) month period which was seconded by Trustee Vatter and carried by a vote of 5 ayes and 0 nays.

Treasurer Position - Trustee Gosda reported that the Village Treasurer has resigned effective February 28th, and she has distributed a job description to the Village Board for review and will have it posted.

DEPARTMENT REPORTS

The Department of Public Works reported sanding and plowing of roadways and parking lots, snow removal on main streets, brush cutting along roadways, cold patching of pot holes, repairs to fire department truck #413, fabrication of a plow for the unimog for use as a back-up, and maintenance of Village owned vehicles.

DPW Superintendent Halvorsen further reported that the 1989 dump truck is out of service indefinitely due to estimated repair costs. The new dump truck is at paint shop and should be ready for delivery sometime next week.

The Police Department reported 15 EMS assists; 6 calls were covered for/assisted to Town Police; 4 assists to other agencies; 18 responses to burglar alarms; 3 E-911 hangups; 2 domestic incidents; 0 felony crimes were reported; 9 misdemeanor/violations were reported; 20 non criminal activities were

reported; 4 arrests were made; 3 vehicle lockouts, 8 accidents were investigated; 46 moving violations; 44 vehicle and traffic stops with warning; and 3 parking tickets were issued. Total patrol miles = 2,333, not including mileage on Chief's vehicle.

Police Officer Michael Lug further reported that the department is developing a program to assist residents in need. Discussion followed.

The Fire Department reported 37 events, including 8 emergency medical service (EMS) calls, for a total of 301 volunteer man hours.

The Water Department reported an average daily production of 1.065 million gallons with all bacteria samples passing N.Y.S. Standards. The required monthly and quarterly samples were collected (a total of 54). It was also reported that 5 meters were repaired or replaced, 2 special readings were taken, and meter reading was completed for Town and Village. In addition to routine maintenance, fire hydrants were inspected and winterized twice, water was shut off at 65 Reservoir Rod, and 9 Tamara Lane, a fire hydrant was repaired at the DPW yard, maintenance of Pecks Road was performed, assisted with snow removal, a pump draw down test was completed at the wells, all employees attended trench safety class and a feed line was worked on at the Black Rock Treatment Plant due to air in line.

The Building Inspector/Code Enforcement Office reported 5 on site inspections, 1 fire inspection, 2 building permits, 5 resolutions, and 3 certificate of occupancy/certificate of compliance were issued.

Code Enforcement Officer Yancewicz reported that the DPW facility at 50 Shore Road was closed down in the afternoon of February 19th for the following reasons: 1) There is no stamped set of plans, 2) no record of inspections, 3) no building permit filed, and 4) no certificate of occupancy. He has met with Mr. Robert Smith of the NYS Department of State, Division of Code Enforcement and Administration who made this recommendation after visiting the site. His primary concerns include but are not limited to: 1) a "spreader footing" was provided for a concentrated load building design on unstable soils, 2) how are posts attached to the footings, and are they of the correct material to be buried and/or in direct contact with concrete?, 3) photos indicate that the top beam consists of nominal lumber attached to each side of the posts with bolts. Are these of sufficient size and quantity to resist shear by both uplift and the combined live and dead load?, 4) are the roof trusses attached to the beam correctly, are the trusses certified, and have they been braced in accordance with the manufacturers specifications?, 5) what is the cause of the "settling" that has occurred, evidenced by the gap between the ceiling and walls in the conference room, 6) the "platform lift" provided does not appear to meet the requirements of the code for handicap accessibility required since the 1980's, and 7) no record exists that the electrical wiring was inspected and approved. He further reported that he cannot issue a permit or certificate of occupancy until a structural engineer has inspected the building and provides stamped "as built" plans.

Trustee Vatter stated that Section 58 of the Code of the Village of Cornwall-on-Hudson states that the Code Enforcement Officer may waive the requirement for filing plans. He asked if Mr. Yancewicz had spoken with the prior Code Enforcement Officers on this.

Mr. Yancewicz replied that NYS rules override Village Code. NYS Uniform Code, Section 1201.2, government buildings and activities states in part "no municipality, with some exceptions, may accept plans for construction of a building which does not provide the seal of a licensed design professional.

Mayor Gross stated that he has been through the LDC files provided by the Village Clerk and they are “inconclusive at best”. Several attempts have been made to retrieve files from Jacobowitz & Gubits, LLP since last week. To date nothing has been turned over. He met with Mr. Yancewicz and Mr. Robert Smith last Tuesday, who was “very emphatic” that as a municipal building it be held to a higher standard.

Trustee Edsall stated that according to the email distributed by Mayor Gross in the late evening of February 19th, the state representative indicated there is no “imminent danger”. He asked if Mr. Yancewicz is aware that section 1203.D-3 of the same code of rules and regulations he referred to earlier, allows the issuance of a temporary certificate of occupancy in this type of instance (i.e. incomplete/missing paperwork). In addition, Village law, section 172-59(C)1 allows up to 90 days to resolve paperwork without causing a major inconvenience and displacement of the highway department.

Mr. Yancewicz stated that he will not issue a certificate of occupancy until the proper documentation is provided to avoid “being held accountable if something happens”. Lengthy discussion followed.

Hearing no objection from the Village Board, Trustee Edsall will finalize a scope of work, and request proposals for a structural evaluation of the DPW building from a minimum of six (6) local professionals. He will then report back through the Village Clerk so she can process the quotations.

In addition, Mr. Yancewicz reported on “Amandas Law” which took effect on February 22, 2010 requiring installation and maintenance of carbon monoxide detectors in new and existing buildings and structures. He provided the Village Board copies of the laws text.

CORRESPONDENCE

Mayor Gross is in receipt of a letter dated February 20, 2010 from Howard & Deborah Protter of 59 Weeks Avenue alleging incompetence and impropriety on the part of the Building Inspector in regard to the issuance of a certificate of occupancy for a new kayak store.

Trustee Edsall recommends that this letter, with attachments, be forwarded to Village counsel for an opinion as to what if any of Mr. Protters allegations are accurate or not and report back to the Village Board. If it is determined this application was improperly handled, NYCRR states that a certificate of occupancy issued in fault should be immediately retracted.

Mayor Gross is in receipt of a copy of a letter to Clerk Mahoney from Yellowbook regarding delivery of unwanted telephone books to customers who have signed on to a “Opt-Out” list.

Mayor Gross is in receipt of a decision from Orange County Small Claims Court on a petition for reduction in assessment by Peter Malone of 10 Idlewild Park Drive (102-19-43).

Trustee Gosda made a motion to correct the 2009 tax roll for 10 Idlewild Park Drive (102-19-43) from \$240,500 to \$204,790 and authorize reimbursement of \$334.85 which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

Mayor Gross is in receipt of a notice from Time Warner Cable regarding programming changes.

Mayor Gross is in receipt of a letter dated February 5th from Orange County Emergency Medical Services Council regarding their 14th annual EMS awards breakfast.

Mayor Gross is in receipt of information from Hagnia Sophia University, a potential project in the Town of Cornwall.

Mayor Gross is in receipt of a letter dated January 25, 2010 from NYS Office of Parks and Recreation informing him that the Upper Dock Hill Road stone arch bridge is listed on the National Register of Historic Places.

Mayor Gross is in receipt of a copy of a letter dated February 10, 2010 to Mr. Yancewicz from Mr. Ray Yannone regarding issues brought to the building departments attention that have not been addressed.

Mayor Gross is in receipt of a copy of a letter sent to the Village Clerk from Glen F. Kubista & Associates notifying the Village of their intent to renew the liquor license for “Drew’s on the Square”.

Mayor Gross is in receipt of a letter dated February 4, 2010 from CSEA regarding Sunrise Dental and Silver 12 Vision rates in effect.

Mayor Gross is in receipt of a letter dated February 8, 2010 from Jeff Dobbins, of CSEA requesting a meeting on upcoming contract negotiations.

Mayor Gross is in receipt of an announcement from Keeping Pace with Energy Options regarding a briefing on new energy efficiency and alternative energy initiatives on February 27th in SUNY New Paltz.

Mayor Gross is in receipt of an invitation from Safe Homes of Orange County to their annual “Love Gently Dinner” on March 1st at Painters Tavern.

Mayor Gross is in receipt of a bid from Smitchger Realty on the Maple Avenue property.

PUBLIC COMMENT

Lee Murphy of 269 Hudson Street stated that he raised some of the issues listed in Mr. Protters letter at the Planning Board meeting. He asked that the Village attorney be apprised since he was not present that evening, and has subsequently learned that Justin Rider, counsel for the planning board, feels the application should have come before the board.

Mr. Yancewicz replied that he based his decision on Village Code section 172-9(b)(2)(a), Central Business and Shopping District, and issued a waiver. Discussion followed.

Ray Yannone owner of Storm King Theater stated that there has been a “systematic pattern” of accusations against him and his building alleging, among other things, a failure to go to Planning Board, and a failure to seek out approvals or make necessary applications. When he acquired the building in 1998, he went before the Planning Board and got approval, for the entire building, for a restaurant use, (accessory use) with maximum occupancy of 215 and set hours of operation. He went back to the

Planning Board in 2001 to construct a theater mezzanine, and apartment which was granted. In 2002, site plan approval was granted for Nicky's restaurant to use the entire building, including the addition of a 6X6 take-out window. In 2007, the former building inspector determined the current occupancy of the restaurant to be bar area (27), east room (20), main dining room (46) for a total of 93. That leaves 142 for remaining portion of the building. The former building inspector explained his position on issuing a certificate of occupancy without planning board referral to the Zoning Board in a letter dated March 25th. The letter stated, in part, that there is no change in the footprint of the building, hours of operation, or peak traffic times. Accordingly, the parking requirements have not increased, and no further site plan approval is required. In addition, he stated that no easements or rights of way have been produced to restrict use of the back lot, except for the expansion or construction of a new building over the Village's municipal easement. If the Board decides site plan approval is necessary for a kayak store, he wants to make certain that every certificate of occupancy issued to every business in the CBS district has been held to the same scrutiny, expense and time that he has gone through these past few years.

Trustee Edsall replied that just because the code indicates sufficient parking and/or no structural change to the building exterior or footprint is planned, does not exempt one from zoning. There are bulk tables in zoning and when there is a change in use, there is an obligation to go to the planning board. If it was only a parking calculation there would not be bulk tables. His approval is for a restaurant, and unless someone is going to "eat the kayaks" there is a problem.

Andrew Argenio of 18 Church Street stated that he finds it "curious" that the letter from Mr. Protter exactly mirrors the documents that Mr. Murphy distributed at the planning board meeting. There may be some points, but it is "upsetting" that the unfounded accusations were made at that meeting by a Village official.

Andrew Maroney of Barr Avenue stated that the area being used by the DPW operation at Shore Road was formed as a dump site. As such, all types of toxic materials were brought and left there, leaving the soil "suspect". He questions whether that substance is stable enough to hold a building.

George Burger of Vinebrook Avenue stated that he was against the construction of the DPW garage on Shore Road from the beginning. He is concerned about employee safety from toxic waste left at the site.

Trustee Edsall replied that a records search was conducted prior to construction, and it was learned that the DEC closed the dump and investigated it for toxic materials. No problem was found. In addition, during excavation at the site, areas of debris were found and additional soil bearing testing was performed. That testing found soil bearing up to 3 tons per square foot for the majority of the building.

Susan Ostrander of Grandview Avenue asked if the footing requirement is different for a commercial DPW site than a residential site. In addition, the building's proximity to the railroad tracks and rail traffic causes a vibration which also adds to its instability.

Jonathan Chase of Taft Place is troubled by discussion tonight on Mr. Protters letter regarding a kayak business when he considers there to be a "grievous defalcation" with regard to the DPW building. The notion of shallow pilings on a former dump is upsetting. In his opinion, the group that constructed the DPW building, "quite consciously did it on the cheap". The building, which may possibly be so inadequately constructed, may have to be taken down. A structural engineering report is needed to determine if it is truly a "safe" building. If he was an attorney representing Mr. Yancewicz, he would

advise him to get an indemnification and hold harmless agreement before signing any certificate of occupancy of any kind.

Trustee Edsall stated that he is not aware of any information on record of a settlement problem. There is a separation problem between the interior structure and the metal roof. Mr. Chase's comments appear to indicate that there is a "terrific problem" we don't know of, and may be inconsistent with findings.

Lucy Provencher of 9 River Avenue asked Mr. Yancewicz to elaborate on his comments earlier regarding his meeting with the state representative on the Riverbank Restaurant certificate of occupancy. She further asked what motivated his interest in the Riverbank, and who lodged complaints against them.

Mr. Yancewicz replied that he did a site inspection and informed Ms. Provencher and Mr. Missere that he would "get back to them" regarding pending violations. He had received a "hat full of complaints" from Mr. Yannone, and the Department of State was already involved when he was brought in.

Neil Drislane of 42 Clark Avenue asked why another kayak shop is needed in the Village. Residents should support existing businesses rather than pave way for other competitors to come in.

Trustee Edsall replied that everyone have the right to open a business there needs to be an "even playing field".

Jeff Armitage of 12 Holts Lane stated that it is his understanding the Water Department was moved from their building on Maple Avenue a couple of years ago because of a lack of facilities and unsafe conditions. If members of the board were concerned about the safety of the DPW building back then, why was the Water Department moved there. Also, the water and DPW employees do an outstanding job for the Village, and for them to be told at 4:00 PM on Friday to vacate the building was unfair. Trucks are now sitting in the Village Hall parking lot, and heavy snow is predicted over the next few days.

Kris Seiz of Avenue A stated that she questions how the building inspector can have an office in a building that is "shaking" and not notice that.

OLD BUSINESS

WATERFRONT REVITALIZATION COMMITTEE REPORT

Committee member Andrew Maroney stated that there is nothing new to report on this item.

HAZARD MITIGATION PLAN

Mayor Gross reported there is nothing new to report on this item.

DOG NUISANCE VIOLATION ENFORCEMENT

Deputy Village Attorney Sculley stated that procedure for municipal prosecution of a dangerous dog is for the police officer/animal control officer to contact his office to discuss the facts in order to determine whether it is a case that is potentially winnable. If so, the officer would issue an appearance ticket(s) and his office would then prosecute in the Town Justice Court.

WORKPLACE VIOLENCE POLICY

Trustee Edsall reported that he is awaiting information from Mr. Jeff Dobbens of CSEA. In addition, he is seeking a volunteer from each department to perform a “risk assessment” of workplace violence. Deputy Village Attorney Sculley added that this policy is required by law. Trustee Edsall would like to schedule an initial meeting and ask Deputy Village Attorney Sculley to attend to provide guidance.

QUIGLEY SEWER DAMAGE CLAIM

Trustee Vatter reported that he is working with the Village insurance carrier and expects they will reconsider this claim. He has also spoken with Mr. Quigley and apprised him of the status.

NEW BUSINESS

ELECTION RESOLUTION

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

BE IT RESOLVED, that the next annual election of the Village of Cornwall-on-Hudson will be held in the Board Room of the Village Hall, 325 Hudson St., Cornwall-on-Hudson, N.Y. on the 16th day of March 2010, between the hours of Noon and 9 PM by voting machine. The candidates, offices and terms for which are as follows:

Richard Gioia, 167 Hudson Street	Trustee	Two Years
Barbara J. Gosda, 19 Homeland Avenue	Trustee	Two Years
James P. Kane, 297 Hudson Street	Trustee	Two Years

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

INSURANCE QUOTES – 2010/2011

Trustee Vatter reported that he has reviewed the quotes received from Marshall& Sterling, Inc. and DeForest Agency. He made a motion to accept The DeForest Agency, Inc. 2010-2011 insurance proposal in the amount of \$133,804.49, which was seconded by Trustee Gioia and carried by a vote of 5 ayes and 0 nays. Discussion followed.

RESOLUTION TO RE-OPE 384d RETIREMENT PLAN

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

WHEREAS, previous Assistant Treasurers had erroneously enrolled part-time Officers Patricia Willard, Jill Nye, and Seth Armstrong into NYS Retirement System (375i) and part-time Officer

Michael Lug into NYS Retirement System (384) by failing to submit the application paperwork in a timely manner to enroll them into the (384d) program.

NOW THEREFORE BE IT RESOLVED, that application be made to New York State for special legislation to authorize enrollment of the aforementioned part-time officers to NYS Retirement System (384d) as of their respective dates of hire: Patricia Willard – 1/1/1983, Jill Nye – 3/19/2001, Seth Armstrong – 10/18/2004, and Michael Lug 5/18/1989.

The foregoing resolution was seconded by Trustee Edsall and carried by a vote of 5 Ayes and 0 Nays.

TAX PAYMENT INSTALLMENT PLAN

Trustee Gioia stated that he first proposed establishment of a tax payment installment plan for Village residents to pay their annual Village tax bill last year. He suggests a two payment schedule with first payment due by April 2nd and the balance due by July. This will help residents on fixed incomes. Discussion followed on how this plan may be implemented.

Trustee Vatter made a motion authorizing the Village Clerk to prepare a project plan to address issues that a tax payment installment plan may cause which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

SEWER/WATER LINE INSURANCE

Trustee Gioia provided information to the Board relative to the Village providing water and sewer line insurance through a special franchise. Hearing no objection from the Board, this information will be reviewed by Village counsel.

DPW FACILITY – TEMPORARY WORKING SPACE

Trustee Gosda made a motion authorizing Mayor Gross and DPW Superintendent Halvorsen to secure more work space for the DPW department and Building department which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

PUBLIC COMMENT

Bill Garrison of Mountain Valley Guides stated that he provided the Mayor, via email, a proposal and request for issuance of a permit to launch kayaks at Donahue Memorial Park, purchase of five (5) parking passes for customer use, four (4) parking passes for staff, and two (2) trailer passes.

Discussion followed.

Trustee Vatter made a motion to call a Special Meeting on March 8, 2010 at 7:00 PM to address this request for a commercial permit which was seconded by Trustee Edsall and carried by a vote of 5 ayes and 0 nays.

Lynn Gage of Maple Avenue asked for status on the proposed sale of the Maple Avenue property formerly occupied by the Water Department. Mayor Gross replied that a bid has been received and will be discussed later this evening in Executive Session.

Lee Murphy of 267 Hudson Street stated that he is interested in making sure certificates of occupancy are issued in a “realistic and legal way”.

Having concluded the business set before them, Trustee Edsall moved to adjourn the meeting into Executive Session in order to discuss litigation, and the proposed sale of Maple Avenue property, which was seconded by Trustee Gioia and upon a vote of 5 Ayes and 0 Nays, the meeting was adjourned at 10:58 PM.