

# VILLAGE OF CORNWALL-ON-HUDSON BOARD OF TRUSTEES

February 27, 2012

The regular meeting of the Board of Trustees was called to order at 7:00 P.M., with the Pledge of Allegiance, at 325 Hudson St., Cornwall-on-Hudson, N.Y.

The following Board Members were in attendance:

Mayor Brendan G. Coyne  
Deputy Mayor Mark J. Edsall  
Trustee Barbara J. Gosda  
Trustee James P. Kane  
Trustee Andrew Argenio

Also present were: DPW Superintendent David Halvorsen, Water Superintendent Robert June, SKEC #2 Fire Chief Chris O'Dell, and Village Clerk Jeanne Mahoney.

Mayor Coyne announced that there is a binder on the back table for anyone interested in looking at resolutions and correspondence that will be discussed this evening.

## **PUBLIC COMMENT**

Jan Smith of 45 Clark Avenue stated that the results of the NYS Comptroller's Report brought many people to tonight's meeting. She "has been monitoring the financial reports this year" and claims that 4 months of revenues and 2 months of expenditures have been misstated. She is concerned that a "bad trend is continuing." She is certain there have been a lot more transfers this year that haven't come before the Board in addition to the \$5.8 million identified in previous years. In addition the "laundry list" of transfers under consideration 2 weeks ago to fund the DPW contract, is different from the list being presented this evening.

Emily Thomas of Hudson Street stated that the Board received information from our special counsel regarding potential litigation to pay for the DPW repairs. As a taxpayer she wonders why the Board would hire special counsel and then not pay attention to their advice.

Melissa Vellone of Bayview Avenue read from a prepared statement concerning the NYS Comptroller audit report. The report indicates that a construction contract for the DPW facility was signed between the Local Development Corporation (LDC) and the builder for \$722,000. The Local Development Corporation (LDC) spent \$900,000 and she would like to know where the rest of the money went. In 2005 the Village bonded money for this project and turned it over to the LDC. The Hudson Street property was subsequently sold for \$300,000 and in her opinion that money could have reduced the amount bonded to \$480,000. She has calculated that by the time the note is paid off in 2020, \$378,000 will have been paid in interest bringing the total to \$1,307,000 for the building. She "called" on the board to be accountable and invited members of tonight's audience who agree with her to stand up.

Maria Miller of Academy Avenue asked whatever happened to Town Councilman Randy Clark's idea to join the Town and Village DPW's. Has a feasibility study been done?

Randy Clark, Town of Cornwall Councilman, stated that he spoke with Mayor Coyne and the Cornwall Town Board about his idea to co-purchase the property next to the Town's DPW garage on Route 32 and build a complex to house both Town and Village DPW's. This will get the Village's DPW out of a "dump" and "flood plain". Mr. Clark suggests that Village Trustees work with the Town Board to look into its feasibility.

Andrew Maroney of 4 Barr Avenue stated that the entire site at 50 Shore Road was used at some time as a dump. He reminded the Board that methane leakage was found.

Jerry Gage of 17 Maple Avenue stated that he is all for getting the DPW building fixed; however, he does not support spending any more taxpayer money to do so. The builder and/or LDC should pay.

Moacyr Calhelha – of 23 Idlewild Park Drive commended the Board majority for moving forward on this very "divisive issue" that has been a constant area of strife for the past 2 years. It is "time to get past what two (2) administrations ago did, and get something done about this." In his career as an attorney he did a lot of construction litigation. People who want to pursue litigation may not understand the associated costs. The defendants will be represented by insurance companies who will pay their legal expenses. The Village will pay its own legal expenses. In his opinion to try to recoup \$300-\$400K in a case which will involve construction experts and attorney fees will be costly to the Village.

Kris Seiz of 19 Avenue A responded to Ms. Vellone's statement that this Board is moving rapidly toward fixing the DPW building when in fact it has been closed for 2 years now. In addition all our employees need a place to work and none here tonight stood in support of Ms. Vellone's position.

Mayor Coyne announced that because of concerns brought forth by Trustees Gosda and Argenio, the resolutions adopted at the February 13, 2012 Special Meeting will be revisited tonight, some of which have had subsequent changes made.

– *Resolution to Adopt Local law Rescinding the Village's Status as an Assessing Unit*-Deputy Mayor Edsall introduced the following resolution and moved for its adoption.

**WHEREAS**, a resolution was duly adopted by the Board of Trustees of the Village of Cornwall-on-Hudson on December 19, 2011 scheduling a public hearing to be held by said Governing Body on February 13, 2012 at 7:00 p.m., to hear all interested parties on a proposed local law entitled "A Local Law To Terminate the Assessing Unit Status of the Village of Cornwall-on-Hudson"; and

**WHEREAS**, on December 19, 2011, the Village Board designated itself as Lead Agency with respect to the SEQRA review of the foregoing proposed local law, classified the proposed action as an Unlisted action under SEQRA, and scheduled a SEQRA public hearing with respect to the action; and

**WHEREAS**, notice of said public hearing was duly advertised in the Cornwall Local, one of the official newspapers of said Village, on January 13, 2012 according to law; and

**WHEREAS**, said public hearing was duly held on February 13, 2012, at or about 7:00 p.m. at the Village Hall, 325 Hudson Street Village of Cornwall-on-Hudson, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

**WHEREAS**, the Board of Trustees of the Village of Cornwall-on-Hudson has reviewed the proposed local law, the short environmental assessment form prepared in connection therewith, and the public comment provided at the aforesaid public hearings, and after due deliberation thereon,

**NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:**

The Village Board finds that:

(1) the proposed local law has no significant adverse environmental impacts and issues a negative declaration thereon;

(2) that the adoption of the proposed local law is in the best interests of the residents of the Village, and hereby adopts said Local Law No. 2 of 2012, entitled “A Local Law To Terminate the Assessing Unit Status of the Village of Cornwall-on-Hudson”; a copy of which is attached hereto and made a part of this resolution; and

(3) hereby directs that the Village Clerk enter said Local Law in the minutes of this meeting; to give due notice of the adoption of said Local Law to the Secretary of State of New York; and to take such other acts as required by law with respect to the within adoption.

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

*-Resolution to Accept Negative Declaration Re: Structural Renovations to DPW Facility-* Mayor Coyne reported that some changes were made to the EAF and the Board was provided those changes in an email. He asked for Board comments.

Deputy Mayor Edsall stated that several boxes previously identified as “not properly” checked on the EAF have been corrected.

Trustee Gosda stated that when she compared this EAF from the earlier one it appeared the only difference was that this would have to come before the Village Board.

Mayor Coyne responded that 6 changes were made and he reviewed each with the Board.

Trustee Argenio noted that on page 2, the EAF reads in part “and was supplemented by a vapor intrusion investigation following NYS Department of Health guidance and evaluate potential impacts”. He asked if the NYS Department of Health has been involved. He went on to point out additional reporting errors he found in the form. Discussion followed.

Deputy Mayor Edsall responded that the form Trustee Kane went over in detail at the last meeting was a guideline form from the NYS Department of Health and that is what the environmental engineer used in completing the evaluation. Mr. Edsall also responded that a lot of the “misunderstandings” reported by Trustee Argenio relate to his “ignoring the asterisk next to the number and reading the number”. Mr. Edsall believes the rest of the form “reasonably reflects” the conditions that are being undertaken as part of the action of a structural modification and code change. There is no proposed change in use. It is not a new building. Looking at the uses consistency with adjoining properties is irrelevant to the action being undertaken by the Board under SEQ. R.

Deputy Mayor Edsall then introduced the following resolution and moved for its adoption.

**WHEREAS**, in or about 2004, the Village of Cornwall-on-Hudson commenced a course of action to construct a new Department of Public Works garage on the property located at 50 Shore Road; and

**WHEREAS**, the Cornwall-on-Hudson Local Development Corporation entered into a contract in or about August 2005, for the purpose of constructing the Department of Public Works garage; and

**WHEREAS**, a portion of the property upon which the DPW garage was constructed was formerly a landfill area that had been closed under guidelines promulgated by the New York State Department of Environmental Conservation (“NYSDEC”); and

**WHEREAS**, the LDC completed the construction of the DPW garage in or about April 2006 and the Village occupied the premises pursuant to a lease agreement with the LDC; and

**WHEREAS**, in or about February 2010, the Village Board was made aware that the previously constructed garage building did not meet the requirements of the New York State Building and Fire Code; and;

**WHEREAS**, the Village Board wishes to make such repairs, upgrades and improvements to the building as are required to obtain all necessary permits, approvals and authorizations, so that the building can be safely utilized by Village personnel and the public; and

**WHEREAS**, the Village Board has retained the services of David Weiboldt, R.A., his structural engineer, Scott Davis, and Maser Consulting, to review the structure, perform soils and related testing, perform a phase I assessment of the site, perform indoor air quality testing and to advise the Board as to the nature and extent of the repairs, upgrades and improvements that are required to bring the building into compliance; and

**WHEREAS**, David Weiboldt, R.A., has issued bid documents for the purpose of receiving competitive bids for required structural repairs, upgrades and improvements, with specifications, to bring the building into code compliance; and

**WHEREAS**, on November 14, 2011, the Village Board authorized the solicitation of bids as proposed by David Wieboldt; and

**WHEREAS**, Part I of an short environmental assessment form (“EAF”) was initially prepared with respect to the proposed action; and

**WHEREAS**, on November 21, 2011, pursuant to, and in accordance with, the provisions of Section 617.6 of the regulations implementing the New York State Environmental Quality Review Act (“SEQRA”), the Village Board determined that the proposed DPW renovation project was an action subject to SEQRA; and

**WHEREAS**, on November 21, 2011, the Village Board preliminarily classified the aforementioned proposed action as an unlisted action; and

**WHEREAS**, on November 21, 2011, the Village Board declared its intent to act as the SEQRA lead agency with respect to the consideration, review and determination of the significance of the aforementioned action; and

**WHEREAS**, on November 21, 2011, the Village Board directed the Village Clerk/Treasurer to distribute a Notice of Intent to Act As Lead Agency, indicating the Village's intention to coordinate review of the proposed project with Involved Agencies, along with copies of this resolution, the EAF and related project documents, to the New York State Department of Environmental Conservation as an Involved Agency, to the Orange County Planning Department as an Interested Agency, and to such other identified Interested agencies, if any; and

**WHEREAS**, on December 1, 2011, the Village Clerk/Treasurer notified the New York State Department of Environmental Conservation and the Orange County Department of Planning, via certified mail, return receipt requested, of the Village's intent to be Lead Agency and to coordinate review with respect to this action; and

**WHEREAS**, the Orange County Department of Planning has responded to the Village's Lead Agency and Coordination Notice on December 9, 2011, stating that the Department of Planning did not wish to be Lead Agency with respect to the project; and

**WHEREAS**, the New York State Department of Environmental Conservation acknowledged receipt of the Village's Lead Agency and Coordination Notice on December 5, 2011, by signing the postal receipt indicating receipt of service; and

**WHEREAS**, the New York State Department of Environmental Conservation did not state its intention to become the SEQRA Lead Agency for this project within the thirty (30) days required under Part 617 section 6(b)(3)(i); and

**WHEREAS**, on January 9, 2012, village representatives met with DEC representatives to discuss the project, including the Village's need for an approval with respect to the disturbance of the landfill; and

**WHEREAS**, on January 16, 2012, the Village Board of the Village of Cornwall-on-Hudson designated itself the SEQRA Lead Agency with respect to the coordinated environmental review for the Department of Public Works building renovation project; and

**WHEREAS**, on January 27, 2012 the Village filed a completed Landfill Disturbance Plan ("petition") with the DEC; and

**WHEREAS**, on February 3, 2012, the Village supplemented its petition by filing an Engineer's Certification, an approximate landfill footprint and deed notice letter; and

**WHEREAS**, the Village also provided all project plans, test results and other relevant items to DEC for its review; and

**WHEREAS**, by letter dated February 6, 2012, the DEC approved the Village's request for an exemption under 6 NYCRR Part 360-1.7(b)(9) of a project involving disturbance of an inactive landfill; and

**WHEREAS**, Maser Engineering has provided the Village Board with a draft long form EAF for the project for the board’s consideration and review; and

**WHEREAS**, the Village Board has reviewed the proposed long form EAF, has considered the information listed therein, and has also considered the prior testing performed with respect to the project, including soil-boring tests performed by a geo-technical engineer, indoor air quality tests, and has also reviewed the plans provided by Dave Wieboldt, R.A., setting forth the renovations required to bring the building into compliance with all applicable codes, rules and regulations, and has reviewed the engineer’s certification dated February 3, 2012 by Andrew B. Fetherston, P.E. of Maser Consulting, P.A., and has reviewed the approximate landfill footprint plan prepared by Maser Consulting, P.A., dated February 3, 2012; and in reliance upon input and advice of its professional advisors,

**NOW, THEREFORE, BE IT HEREBY**

**RESOLVED**, that the Village Board of the Village of Cornwall-on-Hudson hereby determines that the project is an unlisted action pursuant to Part 617 of the regulations implementing SEQRA; and it is further

**RESOLVED**, that the Village Board of the Village of Cornwall-on-Hudson hereby adopts the findings set forth in the long form EAF; and it is further

**RESOLVED**, that the board determines that the project will have no significant adverse impacts on the environment and issues a negative declaration for the project as detailed in a separate SEQRA negative declaration and Notice of Determination of Non-Significance.

Trustee Gosda stated that she agrees with Trustee Argenio in that this site is not well drained.

The resolution was then put to a vote which resulted in 3 Ayes (Coyne, Edsall, Kane) and 2 Nays (Gosda, Argenio) motion carried.

*-Resolution to Transfer Funds for Structural Renovations to DPW Facility-* Mayor Coyne announced that he has made revisions to his fund transfer request which reduces the number of codes affected from 12 to 6. He is requesting that a total of \$187,000 be moved from various codes to the General Fund Building Maintenance line (A5132.4). \$100,000 be moved from General Fund Contingency (A1990.4), \$49,000 be moved from Police/Fire Retirement (A9015.8), \$24,000 moved from Water Rents, \$5,000 from Police Chief Salary (A3120.1), \$5,000 from Crossing Guard Salary (A3120.1), \$4,000 from Firematic Annuities (A9025.8).

Trustee Argenio noted that he only received the revised list this afternoon.

Trustee Gosda is concerned about the \$24,000 transfer for “Water Rents” coming out of the current budget. She indicated that it is “illegal” to make this transfer because the water department has not received any services for that rent money. Mayor Coyne responded that the water department is storing equipment in the DPW garage. Mrs. Gosda indicated that the NYS Comptroller’s Office would have an “issue with that”.

Deputy Mayor Edsall stated that the preference all along was to spread the repair cost over a 5 year period; unfortunately, there was not adequate support on the Board for “softening the hit and spreading it out” so we have got the “direct funding route”. If litigation is successful, it won’t happen immediately

and we need to get our people in the building. It's been 2 years already. In his opinion, Mr. Edsall feels this action does not preclude any issues the people asked the Board to pursue. It simply means action is being taken to move forward to take care of our employees and equipment which is "rotting" sitting outside "in the rain" as well.

Trustee Argenio stated that every construction company has their equipment outside. The "rotting equipment canard" is not factual. Mr. Argenio further stated that no one thinks that we shouldn't "do something"; however, he feels the Board should do what Mr. Clark proposes and not stay in a flood plain.

Trustee Kane thanked the Mayor for meeting with department heads and finding the money to move forward on this. It has been a long 2 years. This Board has entertained long term financing to "get over this hump" and the votes "were not there". We have met all the obligations of the DEC and the State and its time to move on.

Trustee Kane made a motion to accept the following transfers to A5132.4 (Building Maintenance) as requested by Mayor Coyne: \$100,000 be moved from General Fund Contingency (A1990.4), \$49,000 be moved from Police/Fire Retirement (A9015.8), \$24,000 moved from Water Rents, \$5,000 from Police Chief Salary (A3120.1), \$5,000 from Crossing Guard Salary (A3120.1), \$4,000 from Firematic Annuities (A9025.8). The motion was seconded by Deputy Mayor Edsall and upon a vote of 3 Ayes (Coyne, Edsall, Kane) and 2 Nays (Gosda, Argenio) was carried.

*-Resolution to award Structural Renovations Contract for DPW Facility* – Deputy Mayor Edsall thanked Councilman Clark for coming to tonight's meeting; however, this concept is off the future. This Board has to look at what to do **now** with our DPW garage. The total investment, minus equipment, when completed will be approximately \$1.25 million. The engineer that correctly estimated the cost of first phase repairs has estimated a similar size facility, not including land, to be \$2.25 -\$2.5 million. Mr. Edsall feels that spending a total of \$360,000 to \$380,000 for the two phases is good because it brings the building into compliance. If we decide to sell it, it will be a building with a certificate of occupancy and meets code. To have a building sitting vacant without a certificate of occupancy is a "misuse of public funds".

Trustee Argenio stated that Councilman Clark's plan is to bring the building into compliance and then move it to a new location. It is an "erector set". In addition Mr. Argenio disagrees with the estimate provided by Mr. Wieboldt, the architect on this project because Mr. Wieboldt is "not in the land business". Mr. Argenio would prefer to get an estimate from a professional in the land business.

Mayor Coyne met with Councilman Clark last week. They discussed several issues including the purchase of property next to the Town DPW garage which would require bonding. Mr. Coyne feels that given the past record of our ability to get something bonded, the Village won't be able to meet purchase terms for that property.

Trustee Argenio replied that bonding "depends on how willing you are to collaborate and compromise". Mr. Argenio also stated that "when we needed it in a hurricane, we didn't have it or all the equipment that was there".

Deputy Mayor Edsall reminded Trustee Argenio that Route 32 was also closed during the same storm so we would have not been able to get to the Town DPW facility either.

Trustee Gosda reminded other Board members that residents have already spoken tonight who don't want to "put another cent in that building, and here we go throwing good money to bad". The property is in a "flood zone", our employees are in a "temporary situation, and that is just the best we can do – we are a small place". Good decisions must be made because it is taxpayer money.

**RESOLUTION AWARDING THE BID WITH RESPECT TO THE DEPARTMENT OF PUBLIC WORKS BUILDING RENOVATION PROJECT**

Deputy Mayor Edsall introduced the following resolution and moved for its adoption.

**WHEREAS**, David Weiboldt, R.A., has issued bid documents for the purpose of receiving competitive bids for required structural repairs, upgrades and improvements, with specifications, to bring the DPW garage building into code compliance; and

**WHEREAS**, on November 14, 2011, the Village Board authorized the solicitation of bids as proposed by David Weiboldt, R.A.; and

**WHEREAS**, a short environmental assessment form ("EAF") was initially prepared with respect to the proposed action which was later supplemented by a full EAF by Andrew Featherston, P.E. of Maser Consulting, P.A.; and

**WHEREAS**, on November 21, 2011, pursuant to, and in accordance with, the provisions of Section 617.6 of the regulations implementing the New York State Environmental Quality Review Act ("SEQRA"), the Village Board determined that the proposed DPW renovation project was an action subject to SEQRA, preliminarily classified the aforementioned proposed action as an unlisted action, and declared its intent to act as the SEQRA lead agency with respect to the consideration, coordinated review and determination of the significance of the aforementioned action; and

**WHEREAS**, on December 15, 2011, the bids for the project were opened and reviewed; and

**WHEREAS**, on December 19, 2011, the Village Board authorized David Weiboldt, R.A., to review the experience and references of the lowest bidder; and

**WHEREAS**, Eugene DiLorenzo has been identified as the lowest responsible bidder with respect to the DPW garage renovation project; and

**WHEREAS**, the Village Board has completed its environmental review with respect to the project and has issued a negative declaration with respect thereto (See Resolution dated February 13, 2012); and

**WHEREAS**, the Village Board has determined that awarding the DPW garage renovations project contract to Eugene DiLorenzo, as the lowest qualified bidder, is in compliance with General Municipal Law section 103, and is otherwise in the best interests of the residents of the Village of Cornwall-on-Hudson;

**NOW, THEREFORE, BE IT HEREBY**

**RESOLVED**, that the Village Board of the Village of Cornwall-on-Hudson hereby awards the contract for the DPW building renovations project to Eugene DiLorenzo to be performed in accordance with specifications prepared by David Weiboldt, RA.

The foregoing resolution was seconded by Trustee Kane and carried by a vote of 3 Ayes (Coyne, Edsall, Kane) and 2 Nays (Gosda, Argenio).

*-Resolution Setting March 26<sup>th</sup> Public Hearing Re: Duncan Avenue and Church Street Parking*

After some discussion Deputy Mayor Edsall made a motion to table this item so that the bottom of Clark Avenue (firehouse side) can be added to the draft parking law, request DPW Superintendent Halvorsen “refresh” the files, and provide to the Police Sergeant for review. The motion was seconded by Trustee Kane and carried by a vote of 5 Ayes and 0 Nays.

## **MINUTES**

Deputy Mayor Edsall moved for the acceptance of the January 16, 2012 Regular Meeting Minutes as written which was seconded by Mayor Coyne and carried by a vote of 5 Ayes and 0 Nays.

Trustee Gosda moved for acceptance of the January 30, 2012 Special Meeting Minutes as written which was seconded by Mayor Coyne and carried by a vote of 4 Ayes, 0 Nays, and 1 Abstain (Edsall).

Deputy Mayor Edsall moved to table acceptance of the February 13, 2012 Special Meeting Minutes which was seconded by Trustee Gosda and carried by a vote of 5 Ayes and 0 Nays.

## **CORRESPONDENCE**

Mayor Coyne is in receipt of the following correspondence:

- Letter from New York State Attorney General regarding a Code of Ethics/Ethics Board. This has been referred to Attorney for the Village McKay.
  - Trustee Gosda would like to see the letter prepared by counsel before it is sent to the NYS Attorney General.
- Letter from Orange County Partnership regarding their 25<sup>th</sup> anniversary.
- Letter from Painters Tavern regarding renewal of their liquor license.
- Letter from Maser Consulting indicating their municipal rates for 2012 will remain the same as 2011.
- Letter from Assemblywoman Nancy Calhoun regarding Consolidated Highway Improvement Program Funding (CHIP) will be the same amount as 2011 (\$76,651.00).
- Letter from Michael Doyle of Elsie Circle thanking Building Inspector Secretary Arlene Roberts for her help with the Certificate of Occupancy process.
- Letter from Cornwall Presbyterian Church regarding installation of a new pastor on Sunday, February 19<sup>th</sup>.

- Letter from NYS Office of Real Property Services providing a tentative equalization rate of 63.02%.
- Letter from the NYS Office of Parks, Recreation and Historic Preservation announcing that the Union Chapel will be considered for placement in the historic register on March 7<sup>th</sup>.
- Letter from Insurance Services Office regarding a fire insurance classification number.
- Letter from the Trestle Restaurant requesting renewal of its existing outdoor seating permit.
  - Deputy Mayor Edsall made a motion authorizing Village counsel to prepare the necessary permit authorization documents and to allow the existing approval for the Trestle Restaurant to stay in place until the renewal permit is prepared. The motion was seconded by Trustee Argenio and carried by a vote of 5 Ayes and 0 Nays.
- Letter from Michael Kelly announcing that the River View Run for Parkinson's will take place on Sunday, October 7<sup>th</sup>.
  - Deputy Mayor Edsall made a motion approving the River View Run for Parkinson's on Sunday, October 7<sup>th</sup>, which was seconded by Trustee Gosda and carried by a vote of 5 Ayes and 0 Nays.

## **TREASURER'S REPORT**

Warrant #2 - Deputy Mayor Edsall made a motion to approve the February 2012- Warrant (#2) and authorize payments totaling \$319,373.08 which was seconded by Mayor Coyne and carried by a vote of 3 Ayes (Coyne, Edsall, Argenio) 0 Nays, and 2 Abstain (Gosda, Kane).

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

Village water, sewer, garbage & penalties	\$ 39,377.57
Town water & penalties	452,605.14

which included 1 final/adjustments for the Village and 6 for the Town.

Treasurer Mahoney reported receipt of \$6,196,944.03 (86.80%) in anticipated revenues and \$5,355,318.79 (75.01%) in anticipated expenditures through the end of January.

The monthly report was read into the record at the February 13, 2012 special meeting. No changes were noted.

*2011-2012 Insurance – McKane Group* – Deputy Mayor Edsall made a motion to accept the insurance proposal from the McKane Group in the amount of \$136,658.24 which was seconded by Trustee Argenio and carried by a vote of 5 ayes and 0 nays.

## **BOARD DEPARTMENT REPORTS**

Building Department The monthly report was read into the record at the February 13, 2012 special meeting. No changes were noted.

*View Preservation District* – Mayor Coyne reported that the Village Board needs to “look at” the View Preservation District Law and has informed the Attorney for the Village of this.

Fire Department The monthly report was read into the record at the February 13, 2012 special meeting.

Mayor Coyne thanked Storm King Engine Co. #2 for their service during the Mill Street fire. Over 1,000 volunteer man hours were logged.

*Truck Bay Wall Condition* – Deputy Mayor Edsall reported that there has been an ongoing issue with the rear left corner of Storm King Engine’s apparatus bay. Some settlement has occurred in this back corner. The situation is becoming “more obvious”, so last week Mr. Edsall met with an Engineer from Maser Consulting (a Village Engineer). Mr. Edsall has gone through a “list of items” with the Village Clerk that Maser wanted on record in order to look at the structural details and construction history. The Engineers will provide an “action plan” shortly.

Police Department The monthly report was read into the record at the February 13, 2012 special meeting. No changes were noted.

*Resolution Police Chief Appointment*

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

WHEREAS, pursuant to New York State Village Law Section 8-800, the Village is authorized to create and fill the position of Chief of Police; and

WHEREAS, the Village Board has engaged in a long search for an appropriate candidate to fill the position; and

WHEREAS, Steven E. Dixon fulfills the requirements of knowledge, skill and experience to perform the tasks required as the Chief of Police;

NOW, THEREFORE, BE IT HEREBY

RESOLVED, that Steven E. Dixon is hereby appointed, as a position of employment pursuant to the terms of a contract to be executed between the Village and Dixon (and not for a specific term of office as a public officer) to the position of Chief of Police of the Village of Cornwall-on-Hudson effective March 1, 2012; and it is further

RESOLVED, that the Mayor is hereby authorized to execute an employment contract with Steven E. Dixon.

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

Mayor Coyne congratulated Chief Dixon and announced that a “swearing in” ceremony will take place on Tuesday, February 28<sup>th</sup> at 4:00 PM. Residents are welcome to attend.

Department of Public Works The monthly report was read into the record at the February 13, 2012 special meeting. No changes were noted.

*NYS Department of Environmental Conservation* - Mayor Coyne reported that a letter has been received from the DEC regarding Pagenstacher Park.

*DPW Building Litigation/Cuddy & Feder Letter* – Mayor Coyne tabled this item for discussion in executive session later this evening.

*Landfill Disturbance Plan* - Mayor Coyne announced that he has received approval from the DEC.

Water Department – The monthly report was read into the record at the February 13, 2012 special meeting. No changes were noted.

Upon the recommendation of Water Superintendent June, Trustee Argenio made a motion to transfer \$12,000 from Source of Supply Salary Line (W8320.1) to Source of Supply Expense Line (W8320.4) for the purpose of leasing a generator for the Taylor Road Well Field. The motion was seconded by Trustee Gosda and carried by a vote of 5 Ayes and 0 Nays.

After some discussion, Trustee Argenio made a motion to award a “lease-to-buy” contract with GenTech for a 500 KW generator, weather enclosed, and with a service agreement for the length of the lease for \$12,000 a year for four years to service the Taylor Road Well Field. The motion was seconded by Trustee Gosda and carried by a vote of 5 Ayes and 0 Nays.

## **OTHER BUSINESS**

### **AUFFREDOU HEARING**

Mayor Coyne tabled this item for discussion in Executive Session later this evening.

### **RESOLUTION TO PERMIT KAYAK BUSINESSES**

Mayor Coyne reported that several concerns were raised at the last work session and one of the businesses may need to go before the Planning Board. He tabled this item for additional discussion later this evening in Executive Session.

### **MUSEUM LEASE RENEWAL**

Mayor Coyne tabled this item for discussion in Executive Session later this evening.

### **RECORDS: AVAILABILITY BEFORE OPEN MEETINGS**

Mayor Coyne reported that he has made an “initial attempt” to comply with the new law which requires information be made available to the public prior to meetings. He has placed copies of resolutions and correspondence for tonight’s meeting into a binder and it is available on the back table for the public to review. In addition Mr. Coyne hopes to make improvements to the Village website and make it easier to post items to be discussed at meetings.

## PLANNING BOARD VACANCY

Mayor Coyne reported that Mr. Patch has indicated that he will be moving out of the area. He will need to provide a formal resignation to the Village Board for acceptance.

## RIVERFEST 2012 – RESOLUTION TO GRANT PERMIT

Deputy Mayor Edsall made a motion to accept the agreement for Riverfest 2012 which was seconded by Trustee Argenio and carried by a vote of 5 Ayes and 0 Nays.

## SEPARATING SEWER AND WATER BILLS

Mayor Coyne reported that Attorney for the Village McKay has been working on this item.

## TRANSITIONAL DUTY POLICY

Mayor Coyne reported that Attorney for the Village McKay has been working on this item.

## WEBSITE: RESOLUTION TO UPGRADE

Mayor Coyne reported that the Village website needs to be completely redesigned to keep the public better informed especially in the event of an emergency. He is in receipt of three (3) proposals to accomplish this. One is for \$12,000, the second is for \$4,000, and the third, which is from the Town of New Windsor IT Department is for \$549.

Trustee Gosda stated that according to the NYS Comptrollers Report, the Village needs to work on the in-house computer system. Until that work is done, Mrs. Gosda does not think money should be spent on the website.

Deputy Mayor Edsall stated that although fixing problems associated with our in-house computers is important, the expenditure to get the website compliant with the new law is limited and should be taken. Not only does the law require paper copies of meeting documents be made available, but information must also be posted on a website for public review. The small investment with New Windsor IT is a great investment for the Village.

Trustee Kane stated that the \$549 proposal is “probably not going to stretch the budget” and will allow us to comply with the State Comptrollers recommendations regarding our budget system.

Trustee Argenio stated that he is in agreement with Trustee Kane. The Board has a responsibility to provide relevant information to the taxpayers, similar to the School Board. It would be a good idea to learn how many people visit our website; however, we must meet basic criteria of getting information out to our public.

Mayor Coyne made a motion to transfer \$1,000 from the General Fund Consultant Line (A1620.41) to the General Fund IT Technician Line (A1620.42) to redesign the Village website which was seconded by Deputy Mayor Edsall.

Trustee Gosda stated that she finds it interesting that this Board is worried about the Village website and not about Village records. We need to get our “priorities in order”.

The motion was then put to a vote which resulted in 4 Ayes and 1 Nay (Gosda).

Mayor Coyne made a motion to award a contract to the Town of New Windsor IT Department for redesign of the Village website in the amount of \$549 which was seconded by Deputy Mayor Edsall.

Deputy Mayor Edsall stated that he appreciates Trustee Gosdas' concerns and feels we can accomplish "two things at once here". He believes that complying with Chapter 603 of the new law which became effective earlier this month is also important.

Trustee Argenio stated that the focus should be on our compliance and providing information to our residents. He does not support a website about pictures.

The motion was then put to a vote which resulted in 4 Ayes and 1 Nay (Gosda).

## **PUBLIC COMMENT**

Andrew Maroney of 4 Barr Avenue stated that websites are a "dime a dozen". The Board should have considered looking at a college or high school intern as well as looking at other municipalities before moving forward.

Melissa Vellone of Bayview Avenue wanted to address additional litigation costs regarding the DPW facility and Ms. Seiz's early comment that the DPW workers did not stand with her. Ms. Vellone did not expect their support and offered her apology to the workers for the hassles this situation has caused them; however this does not change the fact that the Board has a fiduciary duty to the public. A construction agreement was signed in 2004. Work started in 2005 without soil testing. Final payment was made to the contractor even though a final certificate of occupancy was not issued. This Board has a fiduciary responsibility to recoup any taxpayer money that was not spent appropriately and may have to incur additional litigation costs to do so.

Chris Anders of 102 Mountain Road stated that he is the former chairman of the New Paltz Planning Board. In his experience the Board always had 100% consensus before accepting an EAF and no resulting issues ever came back. In addition he is disappointed that the Board authorized a \$12,000 annual lease for a generator.

## **BOARD COMMENTS**

Trustee Gosda reported that Attorney for the Village McKay forwarded a computer use policy to the Board and she would like to take this issue up "seriously" along with an internet use policy. She asked how many people have signed up for our email notification list. Clerk Mahoney replied that to encourage more people to sign up, she had the information printed in the Cornwall Local and instructions placed on the website. To date there is no record of anyone new signing up.

Mrs. Gosda asked the Village Clerk for a record of information that was lost in the Record Room at the DPW building during the flood. Clerk Mahoney responded that it will take time to go through all of the documentation stored in the Records Room. It is a labor intensive job and the Clerk has applied to FEMA for assistance. As of this date no response has been received from FEMA. Without outside assistance, it could take a substantial amount of time to complete this task.

Mrs. Gosda then asked the Village Clerk for a record of information that was lost from Village computers back in 2010. Clerk Mahoney responded that she has already reported this information to the Board several times. When the server and backup server crashed, documentation in Microsoft Word programs (i.e word and excel documents) was lost from approximately June 2009 to May 2010. The software program used for payroll, utility billing and receiving, accounts payable, financial management, etc. was not affected. Neither was the program used for assessment rolls/tax bills.

Trustee Argenio called for a motion to authorize a transfer of \$50,000 from General Fund Building Maintenance (A5132.4) to General Fund Fiscal Auditor (A1380.4) for the purpose of a certified audit of the Cornwall-on-Hudson Local Development Corporation and all transfers indicated in the NYS Comptrollers Report 2011-M155. The motion was seconded by Trustee Gosda.

Mayor Coyne requested that he be provided a copy of the resolution.

Trustee Kane reported that a bond was sold for \$960,000 in order to construct a new DPW facility. An excel spreadsheet was used to account for the money spent and it balances out to zero. The \$207,000 that some people have insinuated was “stolen” through “fraud, waste or abuse” is wrong.

Clerk Mahoney reported that she was present during the audit. When the auditor requested information regarding the DPW financing, she was provided the \$960,000 bond sale closing documents, the \$722,000 construction agreement, and the excel spreadsheet which showed all payments made. The auditor acknowledged that all funds were accounted for; however the Village was cited because there should have been a separate signed legal agreement for payments made outside the construction agreement. Items outside the construction agreement include but are not limited to the elevator, survey, fencing, legal fees, and water main line.

Ms. Mahoney further reported that back in 2005, the Attorney for the Village helped to establish a voucher payment system and excel worksheet to record account activity. All invoices incurred during construction of the DPW required a voucher signed off by the LDC President and Building Inspector before payment was made. This excel worksheet was provided to Board members at the time and subsequent members. Ms. Mahoney offered to put the worksheet on the Village’s website and encouraged interested residents to look it over.

Trustee Argenio stated that a certified audit is needed to show residents their money was “hasn’t been wasted”.

Trustee Gosda stated that a certified audit of the LDC is needed to go forward. Without it, questions will always be there.

Mayor Coyne stated that he has some concerns with the Comptrollers Report. For example Trustee comments were not included. Mr. Coyne stated that the draft report was not sent to him or Trustee Argenio; however was provided to a former Board member. In addition the draft report has been leaked to the public and media. Credibility is very important.

He then called for a vote which resulted in 2 Ayes (Gosda, Argenio) and 3 Nays (Coyne, Edsall, Kane). Motion failed.

Deputy Mayor Edsall would like to further consider Trustee Argenio's proposal and act on it after he "understands it". Mr. Edsall then stated to the press that he will provide them a copy of the comments made regarding the report by himself and Trustee Kane so they may have the benefit of their viewpoint.

Trustee Argenio stated that a memo from the former Attorney for the Village indicated that municipalities are not to loan money or other resources to an LDC yet that is exactly what the Board did. In order to avoid the Wickes Law, the LDC was created. Mr. Argenio further stated that he started looking into transfers back in July. He wanted to find out if unauthorized transfers were still taking place. After submitting several FOIL requests, he learned that they are. While this Board had all this information back in July (i.e. not doing our "due diligence, acting improperly) we "continued to pound through like business as usual". In his opinion, it is "disappointing" and a "breach of trust with the people".

Deputy Mayor Edsall stated that the public sits here and "assumes that everything that is said is accurate and makes sense; however, one of the things he took exception with in the Comptrollers Report was that we "circumvented applicable State Law with the LDC". If you look at State Comptroller DiNapoli's own publication on LDC's he states that LDC's and similar entities are "not subject to public procurement laws" that require certain contracts be bid out competitively. This includes the Wickes Law. Mr. DiNapoli is "talking out of both sides of his mouth" which is part of problem Mr. Edsall has with the Comptrollers Report. Mr. DiNapoli is setting one standard of what he would like to have happen on laws he would like to see passed in the state but that the State Legislature has refused to pass. On the other hand Mr. DiNapoli acknowledges in his own publication that we "don't have to follow" that because it isn't law. The disconnect to the law in his publication is really disappointing especially from a department within the State Government. In response to Mr. Argenio's suggestion that members of the Board are obstructing the evaluation, Mr. Edsall reminded Mr. Argenio that the resolution was introduced just a few minutes ago and he needs time to understand what is being proposed before acting.

Trustee Argenio stated Mr. Protter's memo discusses the purpose of LDC's is for "economic development" not simply to avoid bidding requirements. Appendix B, Page #27 of the Comptrollers report systemically goes through every point and makes clear that what the Village did was wrong. Rather than argue, Trustee Argenio wants to comply with the Comptroller and be responsible for the peoples' money.

Mayor Coyne stated that we have 90 days to create a response to the Comptroller.

Trustee Kane stated that he would like his and Deputy Mayor Edsall's response to the State Comptrollers Report posted to the Village website along with the detailed "spend down" of the \$960,000. In addition he would like to discuss CSEA/PBA contract negotiations with the Board in Executive Session this evening.

Mayor Coyne stated that when he announced his candidacy for Mayor, one of his intentions was to get the DPW building back "online". Many things have been accomplished to get this building open again. Two law firms specializing in construction litigation were hired to identify potential liability. An engineering firm was hired to create "as built" drawings for NYS code review. He has met with the NYS Department of State Codes Division to review the "as built" drawings. A geotechnical engineer was hired to perform soil bearing tests. An engineer and architect were hired to design renovations to make the facility code compliant. He has met with the NYS Department of Codes for advice on getting back in the building. An engineer for the Village performed air quality tests and a phase one environmental audit of the municipal services complex which includes the DPW facility. We have

solicited and received bids for phase one structural renovations. He has met with the Department of Environmental Conservation to review plans to renovate the DPW facility and to seek approval of a landfill disturbance plan. He sought bond counsel to pursue possible funding of the renovations.

Mayor Coyne reminded everyone that the building has been closed for 2 years, and he has spent more time on this issue than “another 10 issues”. It is “strangling the Village” and we need to move ahead. He is doing the best he can to make sure that building is safe. He was elected Mayor of a Village, not a DPW building. It is time to move forward. Mr. Coyne is glad that tonight another step was taken toward getting our employees back in there. He has the sense that were “Mother Teresa herself to give this project her blessing” there would still be people that would be opposed to it.

Having concluded the business set before them, Deputy Mayor Edsall moved to adjourn the meeting into Executive Session at 9:00 PM in order to discuss DPW litigation, Auffredou litigation, kayak permits and approvals, museum lease renewal, and CSEA/PBA contract negotiations. The motion was seconded by Trustee Kane and carried upon a vote of 5 Ayes and 0 Nays.