

**BOARD OF TRUSTEES  
VILLAGE OF WARWICK  
DECEMBER 18, 2017**

7647

The regular bi-monthly meeting of the Board of Trustees of the Village of Warwick was held on Monday, December 18, 2017 at 7:30 p.m. in Village Hall, 77 Main Street, Warwick, NY. Present were: Mayor, Michael J. Newhard, Trustees: Barry Cheney, William Lindberg, Eileen Patterson, and George McManus. Also present were: DPW Supervisor, Michael Moser, Village Clerk, Raina Abramson and Village Attorney, Stephen Gaba. Others present: Lt. John Rader, Patrick Gallagher, Cathy Gerstner, and Glen Carter.

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

The Clerk held the roll call.

**Acceptance of November 20, 2017 and December 4, 2017 Minutes**

A **MOTION** was made by Trustee McManus, seconded by Trustee Cheney and carried to accept the Minutes of November 20, 2017 and December 4, 2017. Five Ayes

**Acceptance of Reports: Building Inspector (Oct. and Nov. 2017) and Justice (Nov. 2017)**

A **MOTION** was made by Trustee McManus, seconded by Trustee Cheney and carried to accept Reports: Building Inspector (October & November 2017) and Justice (November 2017). Five Ayes

**Authorization to pay all Approved and Audited Bills**

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to authorize to pay all Approved and Audited Bills in the amount of \$129,534.79. Five Ayes

**Police Report:**

Lt. Rader: We have nothing at this time.

Mayor Newhard: I just want to say again, acknowledge and thank the Police Department for all the work that they did this year with the sesquicentennial. It was a remarkable year. There were a lot of things going on beyond the sesquicentennial, but you were really there for us and we truly appreciate it.

Lt. Rader: It was a pleasure. It was a marathon, but it was a pleasure.

Mayor Newhard: It was a marathon, for everyone involved.

Lt. Rader: Yes, absolutely.

Mayor Newhard: But, thank you.

Trustee Lindberg: We just have one more event, Lieutenant, Apple Eve.

Lt. Rader: We're gearing up. I see it's the last event of this year and the first event of the next.

Trustee Patterson: It's a combination of the two actually.

Lt. Rader: Well, our hats off to you to everything you did this year; celebrate the anniversary and certainly to put Warwick in a bigger spotlight than it already is, in a positive way. It has certainly become a place to come in the Hudson Valley. Its events like you held this year that did that.

Mayor Newhard: Well, and also the effort was to do local events because sometimes in the grand sense of tourism we forget our own, we forget what we do on a daily basis and to celebrate our own community, so that was the fun part.

### **Correspondence**

Letter from the New York State Department of Environmental Conservation regarding the Schedule of Compliance to meet the final effluent limit for the Total Residual Chlorine for the Village of Warwick Treatment Plant.

Mayor Newhard: That is work that is being done for us by Barton and Loguidice.

Trustee Cheney: And the dates are consistent what with Barton and Loguidice has given us. At least, the date that is important to them in the letter which is the March 31, 2018 for the engineering report, plans and specifications.

### **Privilege of the Floor**

(Please limit your comments to five (5) minutes. Please note all remarks must be addressed to the Board as a body and not to individual Board members. Please state your name clearly before speaking). These rules are taken from the Handbook for Village Officials – New York State Conference of Mayors and Municipal Officials.

Mayor Newhard: Patrick, hi. How are you? Happy Holiday's.

Patrick Gallagher: Happy Holiday's to everyone here. Ok, so we're here again petitioning you to do the right thing and begin the process of executing the purchase of this property, 16 Elm, under eminent domain before any planning board approval or determination is made. Regarding



comments at the last village board meeting when the subject of eminent domain was raised, Mr. McManus piped up to alert us that, "Eminent domain would not make it free." I just want the entire village board to understand that not one of the hundreds of petitioners and residents who would be impacted thinks eminent domain would make it free. We are not deadbeats looking for a handout Mr. McManus. We're concerned with where that comment springs from. We are asking this board to play by the rules you are so adamant about observing in other situations. Do you or the village board think that the impact on our lives and homes has absolutely no cost attached to it or that the impact of the proposed project would have no negative impact on the village as a result of the damage to the neighborhood? We would all have to pay for all of that for years to come in many ways. I am personally into this for thousands of dollars and many thousands of dollars have been invested along with thousands of hours simply dragging this board to observe the code they wrote. We don't think it's free. Nobody thinks that. An applicant is applying; an applicant assumes the risk of related expense at the outset. For an applicant and his investors this is an expense. It's been shown time and again that this is not a 'by right' use. It is instead a prohibited use and we are fighting for our homes and our lives here. Has this board even considered having a discussion not just to discuss the long-term benefits of eminent domain in this case, but to calculate the destructive outcome and related expense to your constituents if you do not exercise the perfectly legal option to purchase this property by means of eminent domain? We don't think you have and want to have an answer from this board regarding this question. You don't seem obliged or inclined to answer us. We demand to be included in a discussion in an open forum, not the one-way street offered in privilege of the floor, so in that open forum and deliberations by the board surrounding 16 Elm and eminent domain and formally ask you here to place us on the agenda for the next village board meeting to begin that public discussion. Mr. Cheney disputed Steve Gross when Steve pointed out likely outcomes of a lawsuit stemming from the exercise of eminent domain at this juncture. He indicated that Mr. Gross' professional opinion that eminent domain, when no application had been approved, would be an unimpeachable choice in the eyes of the court was equivalent to Mr. Gross acting as a judge. In the same breath Mr. Cheney offered his own projected outcome that he imagined would result if the village protected our neighborhood with eminent domain from the blight that a giant bar proposed in our backyards would bring to our peaceful lives and property values. Mr. Cheney spoke with confidence and years of accumulated gravitas having just acknowledged that only a judge could make that qualified decision. In any event, you all know that courts are where judges make those determinations. Mr. Cheney is no more able to presume to rule on the outcome of a lawsuit than Mr. Gross and so far, it's an imaginary lawsuit. It's a straw man. We're talking about something that hasn't happened. These comments by these Village Board members seem to telegraph a bias present on the part of a significant fraction of the board against even considering eminent domain. Your political opinions around land use and personal misperceptions of our large group of concerned residents do not absolve you of the responsibility to take a very hard, transparent to the public look at the eminent domain question and deliver an answer with clear justification for conclusions you may come to. When doing the right thing necessitates exposure to a lawsuit a village board has an obligation to do the right thing anyway,

not hide behind or be guided by fear of legal action. Allowing a prohibited use at the proposed location based upon an imaginary scenario is not what we expect of our elected board members. Stabilize the property. Secure our neighborhood's future. It was allowed to slip away from you once and it must have been because eminent domain was not considered or discussed. There is no excuse for that to happen again. Please don't just sit here and run out the clock. And it's signed Patrick Gallagher and hundreds of concerned residents and so on. So, I'll just give this to Raina.

Mayor Newhard: Thank you.

Patrick Gallagher: Thanks very much.

**Motions:**

**Trustee Cheney's Motions:**

**Bid Proposal from Tectonic – Dam Engineering Services**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to accept the proposal for engineering services from Tectonic dated December 5, 2017 and authorize the Mayor to sign the contract for Dam Engineering Services including Dam Break Analysis (Task 1.2), Inundation Mapping (Task 1.3), Emergency Action Plan (Task 1.4) and As-Directed Services (Task 1.5) plus expenses (per schedule) at a cost not to exceed \$17,450. Five Ayes

**Purchase of E50 T4 Bobcat Compact Excavator**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to accept the bid and approve the purchase of a E50 T4 Bobcat Compact Excavator from Clark Equipment Co. in the amount of \$73,140.13. This is a budget item; Equipment A5110.2350. Five Ayes

**Rescind the Motion made Nov. 20, 2017 – SmartWatt Energy**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to rescind the motion made on November 20, 2017 to accept the proposal from SmartWatt Energy, Inc. dated November 15, 2017 in the amount of \$3,125.59. Five Ayes

**Installation of LED Lighting in Village Hall – SmartWatt Energy Inc.**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to accept the proposal from SmartWatt Engery, Inc. dated December 13, 2017 and authorize the Mayor to



sign the contract for the installation of LED lighting in Village Hall at a cost of \$3,410.18. Five Ayes

**Discussion:** Trustee Patterson: Can I guess that this means the price went up?

Mayor Newhard: There were extra fixtures.

Trustee Cheney: What happened was O&R came in and did the first assessment and then the contractor, SmartWatt Energy came back and did their assessment and found there were some things that O&R missed in going through that required replacement, as opposed to just bulbs being replaced, right. It was additional fixtures that had to be replaced.

Trustee Patterson: OK, so it's not that the price went up, it's that we needed more. Then no matter what happens to the price now they're stuck in it.

Trustee Cheney: I think it was fifty-five fixtures versus sixty-five.

Trustee Patterson: Ok, thanks.

**RESOLUTION ADOPTING NEGATIVE DECLARATION UNDER SEQRA  
IN REGARD TO MEMORIAL PARK PAVILION PARKING LOT**

WHEREAS, the Village of Warwick is undertaking a project in which a gravel parking lot for 48 cars, which includes gravel walkways, drainage improvements and landscaping, will be constructed and installed at Memorial Park near the existing park pavilion located at McFarland Drive in the Village of Warwick, New York; and

WHEREAS, this is an action subject to SEQRA; and

WHEREAS, the Village Board as the sponsor and sole involved agency (i.e., lead agency) in SEQRA review has prepared and reviewed a short Environmental Assessment Form ("EAF") Part I and has caused an EAF Part II to be prepared;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Village Board accepts and adopts the EAF Parts I & II and authorizes the Mayor to sign the same, and
2. That after considering all of the information presented to it, including the EAF, the Village Board adopts the Negative Declaration attached hereto.

Trustee Cheney presented the foregoing resolution which was seconded by

Trustee Patterson,

The vote on the foregoing resolution was as follows:

Barry Cheney, Trustee, voting	Aye
William Lindberg, Trustee, voting	Aye
Michael Newhard, Mayor, voting	Aye
Eileen Patterson, Trustee, voting	Aye
George McManus, Trustee, voting	Aye

**Trustee Lindberg's Motions:**

**March 20, 2018 Village Election**

A **MOTION** was made by Trustee Lindberg, seconded by Trustee McManus and carried to hold the General Village Election at the Goodwill Hook & Ladder Company at 25 Church Street Ext. on Tuesday, March 20, 2018. The polls will be open from 6:00 a.m. to 9:00 p.m. Five Ayes

**Trustee Patterson's Motions:**

**Warwick Valley Gardeners Annual Garden Tour**

A **MOTION** was made by Trustee Patterson, seconded by Trustee Cheney and carried to grant permission to the Warwick Valley Gardeners to hold their Annual Garden Tour on Railroad Green on July 7, 2018 from 8:00 a.m. to 4:00 p.m. with a rain date of July 8, 2018 from 8:00 a.m. to 4:00 p.m. Completed park permit, \$100 security deposit and proof of proper insurance has been received. Five Ayes

**Warwick Valley Chamber of Commerce – Warwick Valley Farmers' Market**

A **MOTION** was made by Trustee Patterson, seconded by Trustee Lindberg and carried to grant permission to the Warwick Valley Chamber of Commerce to hold the Warwick Valley Farmers' Market at the South Street Parking Lot from May 13 through November 18, 2018 except for Applefest Sunday, October 14. The proper insurance has been received. Five Ayes

**Reports:**

**Trustee Cheney's Report:**

Maybe the DPW Supervisor can tag team on this. We tend to have a problem in certain locations with fats, oils and grease in the sewer and what it does is it tends to plug up the sewer line. Individuals can help out by not pouring the grease down the drain. It's going to make a mess in your piping and when it dislodges there it ends up with everybody else's down the line and creates havoc within the sewer system so, let it sit, let it solidify and then wipe it out with a paper towel and put it in the garbage, please.

Trustee Patterson: And even not down a garbage disposal because some people have the idea that the garbage disposal will break it up.

Trustee Cheney: No, it will break it up for a little while and, so we had TAM our contractor in here doing some TV work of the sewer system in four locations that have been problem areas in the past. Three of them were fine, but the forth one which was off of West Street, kind of down behind the properties there along the creek, we had to clear a very significant grease build up there that if we hadn't had gotten it by now, it probably, within the next couple weeks or month would've caused a total blockage in the sewer overflow and once it gets in there it gets solidified, it creates a big mess. Good job getting to it and catching it before we had a disaster and I don't know, is there anything else you'd like to say?

Michael Moser: No, I'm good thanks. You got it.

**Trustee Lindberg's Report:**

I just want to talk a little about Apple Eve for the final events for 2017 for the sesquicentennial events. Saturday it's going to start out at 8:30 p.m. with the burying of the sesquicentennial capsule which is a special time capsule donated by David Brandt and we're going to put in the posters and we're going to put in the commemorative book and we'll put in some letters from the committee that we buried and opened up January 1, 2067 for the new committee that will be taking over in fifty years for their look see and take advantage of what we've done over the year. So, it's not open to the public, it's just the sesquicentennial information that we will be putting in. That's going to be buried around 8:30. We have a magic show from 9:00 pm to 10:00 pm. 10:00 pm we are going to raise the apple for the kids. We are also going to have Marty Coppersmith from the Jay and Americans. He is going to sing a few songs for us around 10:00 pm. At midnight we are going to have the countdown for the ball to reverse directions and we'll have Chris Ford as the DJ, we'll have a photo booth like last year, we'll have merchandise to sell obviously some food. Jean Claude is going to come up with a beautiful apple cake for us. ShopRite will be helping us out, so there will be plenty of food, noise makers, pots and pans are certainly welcome. Hot chocolate, Barry's making the hot chocolate. So, come down and have some fun.



Mayor Newhard: It should be great. It was so much fun last year and there's a great picture in the Times Herald Record as a coming attraction, so that's a good thing, very nice.

**Trustee Patterson's Report:**

I just wanted to ask if we've clarified, I know that the Farmers' Market charges back for electricity to their vendors and we had put the question out there about whether or not the Applefest Committee makes the payment back to us for electric for that day and I just don't know where are in that.

Michael Moser: We took readings before the event, I don't know if anybody went back directly after the event. I'd have to check with the guys. We could find out.

Trustee Patterson: I mean if it means that there's not enough of a usage for Applefest, I'm real sure there's not enough of a usage for the Farmers' Market so if it means we're not charging Applefest, I think it's only fair that we change that with the Farmers' Market as well.

Trustee McManus: You'd have to check meters on Railroad Green for Applefest as well, because they use it the same place there.

Michael Moser: And then down on South Street.

Trustee Patterson: A lot of time they have a...

Trustee McManus: No, they are all on our property.

Trustee Patterson: Are they, ok. Whatever the decision is, I think it should be fair across the board. And then the other question I had was, as part of being part of the visioning process that's going on for the Town of Warwick has been tremendously interesting and last week we had a great meeting, really well attended meeting where people were giving input about different things and the process is going to be very interesting and will continue into, throughout the next, 2018 but one thing that came up that I think we can have a effective change on before waiting any longer is this issue came up a couple of times that inter-town transportation. Getting from, is it easy to get from Greenwood Lake to the Village of Florida and the Village of Warwick and the hamlets and all of that. Just reminds me that the dial-a-bus, they haven't really improved the communication about the schedule for the dial-a-bus, so I'm going to reach out to them and just, even if they had something printed. One time somebody asked one of the driver's where they could find a scheduled and ironically, they were told we carry them on the buses, well it doesn't do me any good.

Mayor Newhard: They should be available here, they should be available online and Town Hall.



Trustee Patterson: But not just online, but printed out at the caboose and at the schools. Because kids could be getting rides to the movies in Chester or ... and seniors of course at the senior housing. I just wanted to know if we had an update about the odor at Pond Hill?

Mayor Newhard: Yes, actually we just had Karen Clark from Barton and Loguidice came down this week, or last week and we kind of figured out a strategy and she just sent that to us today. I mean it's already started actually, the work is already started, and they had to stop using chemicals so that they could get to a baseline. Now they are going to...

Trustee Cheney: By Wednesday or Thursday, I think. There was a week where they were required to not put any chemicals in to get us a baseline of the odor and then the next week, which starts either Wednesday or Thursday...

Michael Moser: Wednesday.

Trustee Cheney: Wednesday, will begin to add the chemical we've been using to try to reduce the odors, to see the impact that that has and then they're going to take the measurements that they've received and analyze them and try and determine whether dosages are correct or whether another chemical might work better at reducing the odors.

Trustee Patterson: Ok, and we've communicated this to those who are reaching out.

Mayor Newhard: I did. I sent that memo to them tonight. I got the memo and I sent it directly to them.

Trustee Patterson: And are you still doing the regular cleanouts of those spots on, separate question, the sewer cleanouts or traps or whatever.

Michael Moser: Yes.

Trustee Patterson: You are, on the same schedule that we originally agreed to.

Michael Moser: Yes.

Trustee Patterson: Ok, and I'm sure Mr. Gaba will tell me if I should stop talking but...you can tell me if I should stop talking...I would like us to have a discussion about the request that Mr. Gallagher made, and I'd like to give them an answer. I believe we have an answer, I believe we have talked about it and I think it's time that we share our conclusion.

Mayor Newhard: I wanted to have that discussion with Mr. Gaba tonight before we did that.

Trustee Patterson: Ok, I just want to say it in public, during the public portion of the meeting just because I think it's only fair. I think we're all hesitant to respond with the threat of lawsuits being banded at us from all directions, so I'd like to at least come back to the residents with an answer or put them on the agenda so that we can openly discuss it.

Mayor Newhard: Of course.

Trustee Patterson: OK, I'm not saying I'm the only one who feels this way, I'm just the only one who's saying it out loud.

Mayor Newhard: That's fine.

Trustee Patterson: That's all and Merry Christmas and Happy New Year and all those good things.

**Trustee McManus' Report:**

I'll just repeat the one I did last week about Rosemary Copper at the library receiving the award for being one of the ten best librarians in the country or directors in the country, not librarian, I take that back.

Mayor Newhard: I think it was called the Carnegie Award.

Trustee McManus: Congratulations to the library and all of the staff, and especially Rosemary.

Trustee Patterson: Amazing.

Mayor Newhard: Yes, they do an excellent job.

**Mayor Newhard's Report:**

I just have some dates to tell people about. This coming Thursday, which is the first day of winter, the winter solstice, there is a celebration of that at Sandfordville school at the peace circle and that's at 6:00 p.m. and that's being organized by Imagine Warwick. They did it last year for the first time and it was very nice. On Saturday, the 23<sup>rd</sup> which is coming up, there is a visit from Santa, last minute visit from Santa, and Santa will be at Akin's pharmacy from 10:00 a.m. to 1:00 p.m. and that's a sesquicentennial sponsored event, so that's a nice thing. Bring your camera, there's no photographer there, it's really for you to take a picture of your child with Santa. We of course are coming up to Christmas Eve, and the annual sing a long which is at the Old School Baptist Meeting House, and that is at 5:00 p.m. and then of course, Apple Eve. You

explained all the details of that, and that's New Year's Eve December 31<sup>st</sup> starting at 8:30 p.m. Lots of things to do besides Christmas shopping to be done yet. As a retailer, but also as an observer, we live in a remarkable community and the energy and time and care that people take to support our local merchants and businesses is remarkable and I think we are very blessed, but it's a conscious effort and that conscious effort equates to what I believe is a stronger village and we truly appreciate that, so on that note I would also like to wish, on behalf of the Board, on behalf of the office staff, the Department of Public Works, I'd like to wish everyone a very Merry Christmas and a Happy New Year and all the best for the New Year. I think it will be a good one.

**Final Comments from the Floor:**

Glen Carter: Glen Carter, Van Buren Street. I'd just like to follow along with the tradition of basically thanking the board for their consideration throughout the year and making yourselves available, when you're not in session and all the best for 2018 for a successful year for everyone and for the Town of Warwick.


Mayor Newhard: Thank you. I appreciate it.

**Closed Session:**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to go into closed session to seek confidential advice of counsel. Five Ayes

**Adjournment:**

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to adjourn the meeting. 5 Ayes

  
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Raina M. Abramson  
Village Clerk