

**BOARD OF TRUSTEES
VILLAGE OF WARWICK
JANUARY 2, 2018**

7658

The regular bi-monthly meeting of the Board of Trustees of the Village of Warwick was held on Tuesday, January 2, 2018. Present were: Mayor Michael Newhard; Trustees Barry Cheney, William Lindberg, Eileen Patterson and George McManus. Also present was Deputy Clerk, Barbara Ranieri, Village Attorney Stephen Gaba and DPW Supervisor, Michael Moser. Also present: Patrick Gallagher, Stephen Gross, Glen Carter, Margaret Bowes, Ed Sattler, Tom Andreas, Rachel Berlin, David Dworkin, Maureen Jones, Cathy Smith and others.

The Mayor called the meeting to order and led in the Pledge of Allegiance. The Deputy Clerk held the roll call.

Approved and Audited Bills

A **MOTION** was made by Trustee McManus, seconded by Trustee Cheney and carried to pay all approved and audited bills in the amount of \$195,179.65. Five Ayes.

Correspondence

Mayor Newhard: Under correspondence this evening we have one letter from the Orange County Department of Health regarding the operation and inspection of the water supplies and facilities. We also have a letter in the packet from Patrick Gallagher concerning eminent domain and he wanted us to have a discussion about that; but I have a prepared statement. This is a discussion that has been going on since the beginning of this application at the Planning Board and we have discussed it as a Board mostly in Executive Session with our counsel. Let me give you what our thoughts are.

The neighbors and property owners touching the 16 Elm Street property have requested that the Village Board consider Eminent Domain proceedings against this property. The Village Board has been listening carefully over the many months to the voices of neighbors during the application and Planning Board process. We have respect and empathy for all involved, neighbors, applicant, landowner and Planning Board members. This is not an easy issue and it involves change and we recognize that it is unsettling for all involved

We also recognize that this is a property that was zoned Industrial since 1968 then recently changed to Light Industrial. It has been marketed with real estate listings and signage as a Commercial Property for over five years.

The applicant is presenting a proposal for an allowable use and is going through the appropriate Planning Board process. The application was presented falsely as a Beer

Garden, a Biker Bar and a Brown field site. This was an unfair representation and a distortion of the true facts.

The applicant did reach out to the neighborhood early in the process and only a few neighbors showed up. The decision by a majority of the neighbors was not to have a dialogue with the applicant and instead to attempt to block, seek denial of the proposal or resolution through Eminent Domain.

I would like to point out that a Village is made up of contiguous zones that touch each other. At any given area of the Village there are residents that live next to, or close to, Commercial or Light Industrial areas. We have many restaurants in our Village that share residential neighbors. There are many residents that are next to The Warwick Inn, Grappa, Coquito, Viviano's, Fratello's, and the list is long. This is in part the mixed-use quality of a Village. In fact, there are many commercial entities and home businesses that are near or touch this location. Historically, Van Buren Street was once home to a deli market and a cobbler. To argue that there will be a loss in real estate value does not hold true when you look at comparable relationships throughout the Village.

The Village did want to purchase this property for municipal parking, but this was not to satisfy an immediate need or a critical issue. The Village has been diligent over the past years to manage the existing parking so that there is enough parking for visitors to our community for now and the near future.

The use of Eminent Domain is in our eyes, is to resolve an urgent need – at this point in time we do not see that this qualifies – the parking issues would not hold legal merit as it has become an afterthought to stopping a restaurant. We also believe that the Eminent Domain procedure would undermine the fiduciary responsibility that we have to the tax payers of our Village. The cost of the property and multiple lawsuits would present a staggering sum of money that would be shouldered on the Village's taxpayers. The Village Board has been adhering to the New York State 2% tax cap / tax freeze. Our budget is clearly delineated by infrastructure redevelopment which left undone, would create a crisis. It also would represent a precedent that would give consideration for its use to anyone who is displeased with their neighbor or zoning district. We have looked at your request with consideration and legal opinion and we unanimously have determined it is not an appropriate action.

Privilege of the Floor

Patrick Gallagher: I think most people here are not surprised by this response. There's been a little outrage on your part, Michael, when people have said this is a forgone conclusion. The Village has already made up it's mind about what it wants to do and we're just being heard, not responded to. By all means that's a response but you could have told us that last year.

Mayor Newhard: We did tell you actually in the very beginning when you asked that question and the response was no we would not do it but in the meantime in that time

period we felt as a Board we would listen, we would go to the Board meetings, we would read whatever was available, the letters that came through us to the Planning Board.

Patrick Gallagher: When you say it's an allowed application; when it's not a prohibited use that's your interpretation of the code. The Planning Board hasn't made that decision yet. It is a prohibited use. It doesn't qualify. That lot is not something that is not going to disturb all of us and the whole Village.

Mayor Newhard: But that's not the question. The question was would you move forward with eminent domain. That was the question.

Patrick Gallagher: Among other things.

Mayor Newhard: But that was the question. Whether it is a prohibited use or not is up to the Planning Board.

Patrick Gallagher: Okay, so the Village has no responsibility and no sway with the Planning Board at all. In other words the code that the Village wrote that says any use that meets these qualifications is prohibited. You wrote the code. You spent a lot of time on it. You worked very hard on it. Now if the Planning Board chooses to continue with their assertion that there is no impact on the neighborhood, what's going to happen?

Mayor Newhard: That is up to this Board at that point but we're not at that point yet. Those determinations have not been made. I do not know what the Planning Board is going to determine about this entire project at this point.

Patrick Gallagher: Eminent domain is completely off the table. That property is not something that would ever be considered...

Mayor Newhard: I think I clearly explained why it is not.

Patrick Gallagher: I think everybody here thinks that there's holes in that and that the cost to the Village and the amount of money that can be retrieved in parking fees and potential avoided energy costs is enormous and would substantially offset whatever costs are incurred. Of course as you know, everybody here wants to see that property stabilized, not turned into something that is prohibited. That's where I'm coming from, Michael. The eminent domain is part of the picture. The lawyers for the applicant are going on about digging new trenches; they're going on about environmental issues and as our environmental expert pointed out at the meeting in October that still has not been responded to. Anything can be remediated but you can't remediate noise; you can't remediate light. They are not even taking the time to put up some temporary light poles and go down there and turn on a radio. You don't see the Village taking our interest to heart here. We've gone over this ground many times. What's the impact to the

neighborhood and does the Village Board have any input, any concern for that impact. The Planning Board clearly has adopted the same stance that the Village Board seems to have held with all along that there's no impact and of course there's an impact.

(voices talking over each other)

Patrick Gallagher: How many light poles are going to be down there? I can do it with LED's on fishing rods. Plug in a radio. We have another expert who's done sound for five Super Bowls. You were there. You listened to it. You saw it.

Mayor Newhard: What I want to say is this is part of the Planning Board process. It is up to the Planning Board if they feel that there are issues with light, with sound, with smell, with environmental issues that they must have the applicant mitigate those things.

Patrick Gallagher: Why are we going to ruin the neighborhood and mitigate? That doesn't make sense.

Steve Gross: I have to disagree with something you just said. The Planning Board has made a determination. They closed SEQR. It's done.

Mayor Newhard: They have not completed the site plan application.

Steve Gross: They haven't completed the site plan application but I made the point in a letter I just wrote recently that by the very fact that the applicant is now out there digging trenches and doing further study in response to what was brought up at the public hearing that it illustrates that SEQR was prematurely closed and that this Planning Board needs to rescind their negative declaration and reopen SEQR. If it doesn't, it is opening up this Village, your Village, to a lawsuit that I think will be easily won. At this point in time without reopening SEQR as it stands now, legally they've made the determination. They've said there's no impact and they cannot require mitigation for something that they've determined doesn't exist. They made the determination there will be no noise impact so they can't require mitigation for something that they said doesn't exist. It also eliminates their ability to say okay, the deck will cause too much impact by having noise. They can't say to the applicant remove the deck from the application because they made a determination that there's no impact. This is so wrong. The procedure is so flawed. It's ridiculous. At the time that George Aulen was directing the Village Engineer to check no, check no, check no, I got out of order and I yelled out to George at that point check yes, have it studied in the part 3, make the determination then but you cannot possibly say that there's no possible impact of noise but he did. It's going to be so easy to prove in court. This is absurd. I really do think that this Board needs to give some direction to the Planning Board to protect the Village from a lawsuit.

Rachel Berlin: It seems to me from the statement that you just read seemed to be accusing us. It was very accusatory that we stated falsely that it was going to be a beer garden, the biker part. I just found that very insulting because we all work very hard and prepared our statements for that meeting very well. We are professionals that know what we're doing.

Mayor Newhard: I'm sorry. I wasn't blaming you. I said that it was brought out publicly...

Rachel Berlin: It might as well be because I live across the street and if there's a restaurant and bar that's open to 2 o'clock in the morning it might as well be a beer garden. So my son might fail 11th grade but okay. Then to say also that none of us wanted to meet with him, well there were reasons why some of us, many of us chose not to meet with him. It wasn't just that we wanted all or nothing. There were reasons. I just think also it was accusatory because George said in front of all of us well we won't hear that noise. Why isn't that mentioned in your statement? It's all the negative things that you heard from this side but I don't hear anything negative...

Mayor Newhard: I was responding to the question of eminent domain and I was responding to it in terms of creating a rationale of why we looked at this and why we felt that it was not appropriate. In particular the idea that this was zoned as an industrial site since 1968. It was then lessened to a light industrial site and then it actually has been for sale for many years. There is a personal responsibility if you don't like the way something is zoned you have the ability to come to this Board and come to the Planning Board and say we live next to this and I think it should be whatever, but that has not happened.

Patrick Gallagher: One person responded to the zoning change in 2009. It was an interested business person which you can understand.

Rachel Berlin: But a cobbler wouldn't stay open until 2 a.m. I'd love it if a cobbler were behind my house. This is not addressing the issue that Steve is talking about. This should not have proceeded where it did based on this business. A cobbler, great; even a little restaurant that closed at lunch time, but something that's going to be open... and we know we're going to be breaking the code before we even start.

Gene Bowen: I stood here in front of you as an expert in the music business and I offered to do a study. I wrote every one of these people on the Board including you, Michael, and the Planning Board seeking information. Not one of these people, not one of the Planning Board ever responded to me. On the same token there have been a number of letters. There has been no dialogue and it seems you all have stood behind laws and regulations. That's how you've gotten away from trying to deal with the common-sense issue that is going on here. So to say that there's no dialogue we have stood here, we have come to

you. There's been no response. There's been just placate them, put them off and let them go away. In this whole sense of Community 2000 whatever the (expletive) it is, this (expletive) where we're a community, we come together... it's not happening here. It's all held behind laws and regulations when in fact we stood in front of the Planning Board and were talking more about the fact of laws and regulations that are on the books that are clearly being violated but no one is willing to talk about it, no one is willing to discuss, no one is willing to take a stand and say you know what? You're right. But it's just being railroaded and I have a sneaky suspicion from the attorney's that are representing the applicant that the fear is a lawsuit and I asked George that at the first meeting and he said we won't be sued. We're not going to be sued again and it seems to be a lot of dancing around the fact of a lawsuit when in fact you guys and the Planning Board have got yourself now in a corner where we have lawyers and as Steve has pointed out there's an obvious case here on which if it goes in front of a Westchester judge he's going to look at this and say what's going on here? This is crazy. So to say that there hasn't been dialogue well a lot of us didn't go into that bear's trap of being invited into John Christisen's restaurant to have a dialogue because we all had common sense and we all know that that's probably not the best forum to go in to have a discussion. That wouldn't have been a discussion and we were all basically in a place where he might (inaudible due to coughing) it's probably not a safe environment. We've all shown up here to voice and to have dialogue but that dialogue is not met. It's put off or we're just not being heard. So to say that there hasn't been anything, one Board member has come down to the property to see the place. There hasn't been, in all fairness I think there's a lot of retreading of a lot of... restating of a lot of the rumors and stuff when in fact when we all stood in front at the hearing every one of us, everyone who spoke and everyone which the assembly that came there for the applicant thought that everyone was going to point fingers and call names and such. It has nothing to do with our personalities. It has to do with the fact... point to the law, point to what you guys have on the books and it's very black and white. That's what we're addressing. But we're standing out here alone and as taxpayers, which I just now had to pay my taxes. I don't want to pay my taxes to this Town. I don't. I'm not being represented and this isn't what "America" or what we're supposed to have when a Village is supposed to come together. When something like this which is complete common sense and I guarantee you that if any of you were standing in our shoes you'd be standing in the same place that we are saying this is ludicrous. The fact that as gentlemen, as citizens we can't sit down and have that conversation, we have to hide behind laws and regulations and the only thing that gets their attention is lawsuits. That's pretty sad. It's really sad that it's come down to this. Everybody's so deep in how much money has been invested. John Christisen has put in so much time and resources. Somebody's writing a lot of checks to those attorneys; or it's going to come down to us. Everybody's got themselves in a pickle but no one wants to sit down and say let's figure this out.

Patrick Gallagher: It's easy to sit back knowing that we're going to have less money than the applicant's attorneys.

Margaret Bowes: I just have to say the letter you read it sounds like Mr. Capello helped you write that because it is totally critical. We were the ones who called them a beer garden and all this. We were the ones that didn't show up; were unwilling to talk to him. I was one of the jerks that went. Did he keep his word? Did he come and talk to me? No, Mr. Mayor and you know it. As far as well it was our responsibility if we didn't want it light industrial... well according to your zoning laws the light industrial would not allow a 3,600 plus building surrounded by 1,200 feet residential homes. It's inappropriate. The zoning law for that designation says so. It's not our responsibility. It is your responsibility and the responsibility of our Planning Board which is a joke to protect us. What is the point of having laws if our leadership ignores them?

Steve Gross: Michael may I also point out that a light industrial use on that property would be far more acceptable than what is proposed. Even industrial use would probably be more acceptable than what is proposed. Both of those uses would probably be operating during business hours and then the people would go home. This is something that is being shoved up into these neighbor's backyards. Literally in one case the excavation would be occurring 20 feet from someone's back door. This noise is going to go late into the night and I don't think if anyone looked at... that wasn't knowledgeable. Lay people would say light industrial that shouldn't be too bad; maybe it would be a car garage or something like that but I don't think anyone looking at a light industrial zone would ever think that they'd be potentially subject to a bar operating into the wee hours of the night with an outdoor deck with the noise being created from an outdoor deck and just feet from their back doors. You cannot point to that light industrial and say that you did something. It didn't do anything. In fact, you lessened the protection because the current zoning shows that industrial zone going up to the property line where the old zoning map had it 40 feet recessed.

Mayor Newhard: We have reviewed that.

Patrick Gallagher: We never really got a clear answer on that. We don't know what happened. Nobody seems to know where that 200 feet went.

Mayor Newhard: Excuse me, that zoning map... we don't even know where it was from but at the last zoning change what the boundaries are now were what we were working with during that zoning change.

Steve Gross: Then your Village Engineer is the same engineer that was for the applicant that put that boundary 40 feet back on the application. He has to have the answer.

Mayor Newhard: I've asked him and he does not have the answer.

Patrick Gallagher: Then find the answer.

Mayor Newhard: We've looked and we do not have any record of that.

Patrick Gallagher: Is any of that consistently applied across the board throughout the Village? Are there other examples of similar circumstances in other zones or in other areas or is that just a mystery that only occurred in one place, one time and changed in 2009 and no one knew how or why.

Mayor Newhard: It wasn't changed in 2009. It doesn't exist in any other places in the Village.

Trustee Cheney: I'm not sure it doesn't but in the Comprehensive Plan it appears that although the scale of the map is difficult to read, it appears that it was made to coincide with the property lines as opposed to a zone crossing a property.

Patrick Gallagher: So something does exist that would require a broader conversation than the one that we're having right now where we've got a fuzzy map and not enough knowledge of really what happened. It's all kind of vague.

Steve Gross: There's two possibilities for that line being shown on the application the way it was. One is that that really was reflective of the zoning line that existed at the time of that application which would be the logical explanation or the second possibility was that it was mitigation that was proposed at the time that those approvals were granted that they gave up that buffer around the perimeter of the property in exchange for getting approvals for the parking lot... for the car storage lot and if that was the case they put a restriction on that property that ran with the land then it would still apply today regardless of the zoning map.

Mayor Newhard: That seems like something that should be brought up to the Planning Board.

Patrick Gallagher: We can't. We're not allowed to. If they reopen SEQR maybe we've got a shot.

Glen Carter: There's no process in place for them to hear us. We keep getting this is not a question and answer period.

Patrick Gallagher: You're resting on precedent. In other words if you set an example by employing eminent domain in this case you'd be setting an example that could be used

for or against whoever somewhere down the road and at the same time if there was a precedent of this property and that border and it should go with the land, could we ignore that? You're concerned about a precedent. Let's look at the precedent.

Steve Gross: The Planning Board archives should probably be dug out for that approval.. for the approval for the Country Chevy storage lot to see if it's in the minutes or the approval itself and we can't do that. It's archived somewhere. I don't know where you have the Village archives for the Planning Board but that's got to be dug out.

David Dworkin: We've been here 22 years and every year it seems that the parking garage business has been dismissed. We find that every year it gets worse and worse. I don't know whether the people in this room think there isn't a parking problem or going to be one but I see it. I see it every day. We've had people from out of town pass us and leave because they couldn't find a parking area. I think that should be really... you really think we don't have a parking problem and it's going to get better or stay the same? Lala land here... everybody's coming here.

(voices talking over each other)

David Dworkin: I think that really should be reconsidered. Can you honestly say there's no parking problem?

Kerry Bowen: My neighbor is the Warwick Inn. As I've spoken before they're great neighbors. They close at midnight. There's no outside noise. You go in for a drink at 11:30 and they're not keeping you. You're gone and when people leave they drive out of the parking lot directly on to Main Street. There's no coming down my back street to avoid the cops. They file right out onto Main Street. Also like my neighbor Rachel, I feel a little hostility that we caused the rumors of a beer garden or a motorcycle club... also that even somehow we failed because we don't come to meetings to say hey what could that potentially be. As far as the beer garden and stuff, like okay, does the application not say it's never going to be a beer garden? He could sell it tomorrow and guess what it's a beer garden. It's a motorcycle bar. Not saying motorcycle bars are bad but they do not belong in the middle of a Village. Motorcycle bars have their place. There's the belief that in Paris one moped with a faulty muffler has the potential to wake up 250,000 Parisians. What can a motorcycle do in the middle of Warwick? What can a bunch of motorcycles do leaving a bar on Elm Street and deciding to go to Main Street. If it's not a biker bar or never going to be one where is that said? Also I'm here, I live next to the Country Club. There's a golf course. I'm here at your meeting, okay what can you tell me to make sure that I don't get a bar in the middle of the country club someday, that they don't sell their land and I'd have a bar in my backyard? What can I do to prevent it? What are the rules? What do I have to do so this doesn't happen in our neighborhood.

(voices talking over each other)

Mayor Newhard: It's been zoned as an overlay for residential... that particular parcel.

Kerry Bowen: So if I don't come to every meeting and that changes somehow like it's on me if I get upset about it?

Mayor Newhard: No, I'm not saying that. I'm saying that as a group that if you don't like the way something is zoned then you should come and talk about it but this is pretty far down the pipeline. This should have been talked about a couple of years ago. When you moved to the property, your properties, when you bought your properties what...

Patrick Gallagher: Blame us for buying our properties.

Mayor Newhard: Excuse me.

Unidentified Woman: A lot of the people who live near restaurants bought their house knowing that the restaurant was there, knowing that the bar was already there and they bought their house. They didn't buy something and there was no bar there.

(voices talking over each other)

Maureen Jones: When you say mixed use, I get that. We moved to the Village to be near things and we get that we have to be near things but this is not near something. Joe has been paying taxes for 50 years. It's 40 feet from his yard. That's ridiculous. It's ridiculous. It's common sense. Mixed use is not that. You can't be serious that this is going to not ruin our real estate. I mean if Van Buren Street people on that side of the restaurant can't sell their houses they turn into rental properties. When one side of the street goes the other side goes. That whole neighborhood could go. Is that your vision for the Village?

Mayor Newhard: I don't believe that will happen.

(voices talking over each other)

Mayor Newhard: There hasn't been any precedent that to prove that or to show that anywhere in this Village.

Patrick Gallagher: There's a man here tonight who's daughter is considering buying Steve's old house. She's not going to buy it if the bar goes in there. Who is going to buy it?

Rachel Berlin: It's the same on Van Buren. Someone was considering buying a house and the people changed their minds.

Patrick Gallagher: If a person does buy a house not knowing the bar goes... is theoretically coming and they buy that house and their property value plunges would you say to them hey you know you should have checked.

Maureen Jones: All those homes could be rental properties that would bring the value of the Village down. Think of the future.

Patrick Gallagher: ...McEwen Street 20, 30 years ago.

Margaret Bowes: I just don't understand how as intelligent people you can sit there and say it's not going to have an impact. Come on. Our backyards are very narrow, okay and it's going to be right there. 3,600 feet plus outdoor dining within 40 feet of my property line which is only like 20 or some odd feet from my house. How can you say there will be no impact if I go to sell it? You can't. To say there's been no precedent in the Village well we're making one now. If this goes through you're going to have a bigger problem on your hands if the Planning Board tries to approve anything else like it in the Village because they're going to see what's going to happen to Elm, West Street and Van Buren surrounding.

Mayor Newhard: The value of the properties are based on comparables. You can ask any realtor.

Cathy Smith: I work for a real estate company in Tuxedo and when we look to put a value on a home we do comparables. So, it's not only going to affect the value of the homes on these streets you're going to look at houses that are the same square footage, the same age and that's how you come up to the price. It's not only going to bring the prices down on the houses on Elm Street, it's going to bring the prices down on all the comparable houses in Warwick.

Mayor Newhard: I think what is being said is that because of a proximity to a restaurant that the price of a house is going to be...

(voices talking over each other)

Mayor Newhard: When you do comparables does it say anywhere is this close to a restaurant?

Steve Gross: Michael you're arguing about an appraised value.

Mayor Newhard: You know what we're going off point here. The question to this Board was whether we would move forward with eminent domain and we have given you our response.

Unidentified Woman: How do we get to talk to the Planning Board directly. You're saying we're not speaking. What are our options? Do we have any?

Mayor Newhard: Writing, you can still write.

Trustee Patterson: The Planning Board has been receiving letters.

(voices talking over each other)

Stephen Gaba: You go to a public hearing. That's where you have your chance for input.

Unidentified Woman: The Planning Board head said to the rest of the Board oh by the way there's a bunch of letters upstairs. If anybody wants to read them you're free to read them. They weren't read. I know they weren't read and I also found out, Michael, about six people who didn't go into your store and went out of town where they came from because they couldn't park and the husband got so annoyed he said to the wife you guys get in the car I'm leaving town. This has gone farther than this little meeting. It's gone to Bergen County and places where people who thought of coming up here but are not coming up here now. It isn't the little town from 20 something years ago. There's nothing to buy but junk. There's no parking. Everything's changing. It's becoming a bar town. 14 bars I think in the Village.

David Dworkin: We did attend that Community 2000 meeting at the middle school and there were many, many people whose priority was parking. They were talking about parking all around us. We were in groups and whatever as suggested. Maybe you should review that but there sure in heck is a parking problem in this Village and it's going to get worse.

Patrick Gallagher: Michael and Eileen are intimately familiar with the results of that.

Dave Smith: Is there any recourse if the Planning Board approves this application? Does the Village Board have the power to overrule them based on the fact that it violates their code?

Stephen Gaba: The Planning Board is an independent Board. Its purview is approval of applications such as site plan. This Board has no veto power over a determination made by the Planning Board.

Dave Smith: So, their word is final. So, Michael earlier you had stated we hadn't gotten to that point yet where they made a decision and you had an opportunity to overrule...

Mayor Newhard: I never said that.

Dave Smith: If their decision is based in violation of the existing code then our only recourse is a lawsuit, is that correct?

Stephen Gaba: As far as that application, yes.

Steve Gross: Steve, I'm familiar intimately because it happened to the property next door to where I used to live. Where an application was made and approved by the ZBA and then the Town Board sued their own ZBA to overturn it and won and got it overturned. Are you saying that this Village Board wouldn't have that same power?

Stephen Gaba: Well it's different from veto power. Yes you could sue your own Board. That does from time to time happen.

Steve Gross: So there is something. You said there is nothing that this Board could do but that's not true.

Stephen Gaba: It was asked if the Board could overrule it and that is not true. They cannot overrule it. Could they bring a lawsuit? Yes, they could bring a lawsuit.

Steve Gross: So the Village Board does have the power to be able to bring a lawsuit against the Planning Board if they disagree with the approval.

Stephen Gaba: The Planning Board or Zoning Board, absolutely.

Trustee Patterson: But Steve to be clear the question that Mr. Smith asked was can the Village Board overrule a decision that the Planning Board has made and the answer was no.

Dave Smith: My question was is there any recourse other than remorse.

Patrick Gallagher: We're looking for the nuanced, caring, helpful, positive response to our needs and concerns, not the very specific, syllable for syllable legal definition. We want your help. We've been asking for it all along. It doesn't feel like we're getting it but maybe we are. Maybe behind the scenes in Executive Session you guys are going oh, poor neighborhood, let's help them out. We haven't gotten that feeling.

Glen Carter: In the matter of eminent domain I respect that you actually gave consideration but I take offence to your ignorance of our objections. I find it alarming that the Village Board collectively as a body is basically regarding our protest as an inconvenience or an irritation to the process.

Mayor Newhard: I disagree with that and I disagree because I believe that the members of this Board in relationship to the Planning Board have made suggestions and that is nothing that you're privy to but I know for a fact including myself.

Glen Carter: So, once again we wait and we're left with deferring to the process and I can't help saying it just kind of feels like we're being ignored formally.

Tom Andreas: I was just wondering one thing we have all agreed on was that we are bound in the process. Do the Village Trustees, do they have a concern or do they have responsibility that what they have written to be the standards specifically regarding the noise ordinance but in general they oversee the Village, the direction, it's not in a planning sense but the broad picture. So in a sense at least theoretically you have some sort of oversight as to what the goals of the Planning Board are if not their methods or actual decisions. I guess my question is do you feel that you have responsibility that the words that you have written in terms of the noise ordinance are adhered to and does it cause conflict with the Planning Board if something bold face flies against it and violates them totally. Not to say that you can veto it but do you take any... do you feel that it is in your purview to take any response when something runs so contrary in particular again that noise ordinance. There's either two choices change the noise ordinance or adhere to it but the ignoring of it and saying well that's the Planning Board, they get to decide whether this meets it or not, really come on. You ask 100 people on the street would having 50 people sitting 20 feet from your back door eating and drinking until 4 a.m. bother you? Is it going to change the appreciation of your property? Will you enjoy your yard as much? Because I've been there not that extreme but virtually where I couldn't hear and talk in my backyard. We had to go indoors because it's too obnoxious. Believe me it ruins your appreciation and there's no way in hell that it makes your property more attractive to a buyer. It may not on paper lower what shows up on Zillow but the person sees that bar and says we're out of here honey. They're not going to consider it. The only way you sell it is you drop your asking and that's where the rubber meets the road in terms of what your property is worth and anybody with common sense knows that's what's going to happen. Just information because I did want an answer do the Trustees feel some responsibility that what you have specified be more or less adhered to because this is going to run in the face of it.

Mayor Newhard: Well of course we do but I can't make a presumption that somebody's going to make that noise, even the anticipation. I can't make a judgment call on something that doesn't exist.

(voices talking over each other)

Tom Andreas: I think we see the conflict taking shape here. I'm not asking you to predict the future and to pre-empt it. I think everybody in the room would like to know that somebody was at least looking out for their interests here and in case the extreme happens does anybody care? We talk about mitigation after the fact. Well after the bar's built we'll see how loud it is and then we'll see what we can do when really the situation needs mitigation before that as we stated. We need to anticipate what are the sounds likely to be. What are the noise levels likely to be and let's (inaudible)... I don't say well I don't know if my tire's ever going to wear out I'll wait until it blows and then decide how I'm going to fix it. No, you look at your tires and you size them up. You say I think I've got another month, I better hurry. That's the way people plan. You guys are not the Planning Board but you are the planning fathers. You are the overseers.

Stephen Gaba: You're really mixing two things together here. I think you know this but the way that it works is there's a process. The Village Board enacts the zoning code and land use development regulations and the Planning Board and Zoning Board interpret and apply them. This Board can't step over and intervene in interpretation.

Tom Andreas: I'm not asking you to do that.

Stephen Gaba: You are.

Tom Andreas: I'm asking okay the Planning Board may (inaudible) at some point in the future. Eventually they're going to have to. Say they decide they keep the standpoint that this has no impact on the community, the neighborhoods are not affected. Say that happens and I was talking hypothetically, but we have to consider the hypothetical. We all are. So if that hypothetically happens is there anything that the Trustees would conceive of doing? Would you feel at all that the mandate of that noise ordinance has been violated or compromised?

Mayor Newhard: We have an ordinance in place and we have a code enforcement officer. That happens all the time.

Tom Andreas: It's a very frustrating process. It doesn't work until the problem people move.

Mayor Newhard: It could be any neighbor.

Tom Andreas: This is not a neighbor. This is a 24/7 business operation. They don't move unless they stop making money.

Steve Gross: I'll agree that maybe you can't predict what the noise impact is going to be but the Planning Board has the responsibility to do that projection as part of the SEQR review. It's not only can they or can't they. They have the responsibility to make that projection. The issue has been raised. They have not done the proper analysis to determine that there won't be an impact and yet they made that decision. This is a problem. There are scientific methods... this is my job. My job is to project environmental impact. I have to do it all the time. You can't tell me you can't do it. You can do it. They just haven't. I have a question, Steve, if there is a question about interpretation of the zoning code who is the proper body to go to, to make a call on interpretation of the zoning code. Is that the ZBA?

Stephen Gaba: You start with the Building Inspector and assuming you have standing to ask for the interpretation, you go to the Building Inspector and say I'd like an interpretation of this particular provision and if you either don't like his answer or if he decides it is some particular issue he can't decide he can refer it on his own but one way or another it goes to the Zoning Board of Appeals on referral from the Building Inspector. But the issue you're talking about as far as noise and SEQR review, the Village Board can't intervene on SEQR review with the Planning Board. They have no ability to go into that at all.

Steve Gross: There is a provision in the zoning code that the neighborhood has argued is being violated by this proposal that this should be interpreted to determine that proposed use is a prohibited use. To make that call it should be the Building Inspector first who looks at this and then an appeal to the ZBA on this very cause.

Stephen Gaba: It doesn't go to the ZBA unless either the person who makes the application to the Building Inspector or the Building Inspector himself refers it to the Zoning Board. The Zoning Board is an appellate board.

Steve Gross: So, who has standing to ask this question?

Stephen Gaba: That's a very good question and it's fact specific. It depends on somebody who has a legal vested right in the answer to that question. For example the applicant now... no the Village Board does not.

Steve Gross: Does not have standing to ask this question?

Stephen Gaba: To seek a determination from the Zoning Board... no not really. If there was for example a County coming in and the County comes in and they want to build some sort of utility structure and they wouldn't be subject to our zoning because there is a rule that says that if you have municipal power coming in you don't have to comply with it unless it presents a public health and safety issue and you had an issue in your zoning

code where them coming in might present a public health and safety issue. They maybe since they had some interest in the property that's being taken by the County then maybe because it was Village property or Village interest... government interest then maybe they could. I have never heard of a municipal board asking it's Building Inspector or Zoning Board for an interpretation. I guess you could build some scenario in which they might have standing but it's property owners. Property owners with legal interests who can go to the Building Inspector.

Steve Gross: How about the neighboring property owners that would be affected in this matter, do they have standing to go to the Building Inspector and then to the ZBA?

Stephen Gaba: Possibly.

Trustee Patterson: During the application process?

Stephen Gaba: I've got to know about the neighbor and what the impacts are.

Trustee McManus: They don't have the right to go to the ZBA through.

Stephen Gaba: No, not the ZBA, the Building Inspector.

Trustee McManus: Listen to the question please.

Steve Gross: They have the right to go to the Building Inspector. If they don't like the answer they get from the Building Inspector can they then appeal to the ZBA?

Stephen Gaba: If they had standing to ask the question absolutely.

Trustee Patterson: Can you define standing.

Stephen Gaba: Standing is a legal term. It means if someone has a legally...

Trustee Patterson: No, I know what standing to ask the question means, I'm asking you to give an example of someone who has standing to ask the question. We're in the middle of an application process so we can't make an impact on the decision process that the Planning Board is making and I think the question that's being asked is can the neighboring properties address that issue to the Building Inspector for this property tomorrow.

Stephen Gaba: Well if I was an adjoining property owner...

Trustee Patterson: During the application process.

Stephen Gaba: It doesn't matter the timing of it as far as that goes. If I was an adjoining property owner and I could identify some aspect... I don't know the value of my property is going to be enough, you're talking about light, you're talking about noise, things like that. If you can show that there's going to be damage to that interest. I don't know that property value is going to be enough but if you could come in and say I'm next door and the lights from this property are going to impact... and I don't think it's a permitted use that those lights are coming from... or noises or odors, it might be traffic impact but it can't be somebody four blocks away. You've got to be close enough.

Steve Gross: We're talking neighboring, right there.

Stephen Gaba: Then I think that person would have standing, yes. But you're going to have to lay it out. You can't just write in and say hey I want an opinion. They don't hand out just advisory opinions. You have to say look here's my problem. I'm right next door. They seem to be under the impression this is a permitted use. I don't think it's a permitted use. They're applying for land use approvals under that use and it's going to have these detrimental affects on me. You've really got to lay it out and then if you do all that and you ask clearly for what you want, you site the zoning code section what you want an opinion on, I think he'd render an opinion.

Steve Gross: Okay, I'm a little surprised to say that you don't think that property values would be a potential...

Stephen Gaba: I'm not sure about that. Maybe they are, maybe they aren't.

Steve Gross: One of the most fundamental purposes of zoning... one of several but one of the fundamental purposes of zoning is to protect property value.

Stephen Gaba: It's one. You're talking about legal standing and I'm telling you right now, look I could be wrong but I'm just not sure about that. I can say environmental impacts, physical impacts you have standing.

Steve Gross: Okay, I think you know what you have to do.

Patrick Gallagher: Yes.

Ed Sattler: I'm still concerned about how our neighborhood will change and I don't have numbers but the question I would ask, if you look at the homes on Orchard, one side of Orchard, not every, but almost every home backs onto a commercial property and if you look just at that one side of the street before Mitchell Corners happened and going back to a previous owner of the car wash, the car wash grew from what it was all those years, what's happened to the percentage of the number of single family dwellings as opposed

to units of multi-family. Could this same thing happen? Do we already have an example of the neighborhood changing? It seems to me that the neighborhood has changed since I've been here and not about who's in the units, is it an owner-occupied dwelling or is it a rental?

Mayor Newhard: We're going to move on to motions.

Motions

Waive Reading of Amended Resolution

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to waive the reading of the Amended Resolution accepting deeds to the streets within the Warwick Grove Development. Five Ayes.

Discussion

Mayor Newhard: I just wanted to point out on the motion to amend the resolution someone can make a motion not to read the resolution.

Mid-Hudson Street Light Consortium

A **MOTION** was made by Trustee Cheney, seconded by Trustee Lindberg and carried to adopt a resolution authorizing the Village of Warwick to participate in the Mid-Hudson Street Light Consortium.

THIS MUNICIPAL COOPERATION AGREEMENT, dated as of the __ day of December 2017, is entered into by and among the Town of Red Hook, Dutchess County, New York, the Town of Rosendale, Ulster County, New York, and those several municipal corporations, organized and existing under the laws of the State of New York and listed at Exhibit B hereto as Additional Invitees, which may from time to time execute and deliver this Agreement in the manner provided herein, thereby agreeing to be bound by its terms and conditions, and which are hereinafter individually referred to as a "Participant" and collectively referred to as the "Participants."

RECITALS

WHEREAS, Article 5-G of the New York General Municipal Law authorizes municipal corporations to enter into agreements for the performance or exercise of services, functions, powers or activities on a cooperative or contract basis among themselves or one for the other; and

WHEREAS, Section 119-n of the General Municipal Law defines the term "municipal corporation" for the purposes of Article 5-G as a county outside the city of New York, a

city, a town, a village, a board of cooperative educational services, a fire district or a school district; and

WHEREAS, Each of the Participants is a “municipal corporation” as defined above; and **WHEREAS**, on November 20, 2015, Governor Andrew M. Cuomo signed an amendment to the New York State Public Service Law by adding a new section 70-a that establishes procedures for municipalities to purchase complete street lighting systems from the respective electric utilities that have historically owned the systems; and

WHEREAS, Each of the Participants has acquired or intends to acquire ownership of their respective street lighting systems and intends to begin the process of converting all of the acquired street light fixtures to LED technology; and

WHEREAS, each Participant may require the services of a qualified provider to (1) maintain its existing lighting system prior to LED conversion, (2) to perform the LED conversion work, and (3) to provide follow-on maintenance and warranty service for the converted system.

IN CONSIDERATION OF the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Participants covenant and agree as follows:

PARTICIPATION

The Participants hereby designate themselves under this Agreement as the participants in the Mid-Hudson Street Light Consortium (the “Consortium”) for the purpose of soliciting proposals for services related to the maintenance and energy efficiency conversion of municipal street lighting systems and follow-on warranty and maintenance services. Additional municipalities from the list identified at Exhibit B are invited to join this IMA for cooperative procurement by executing the signature page and delivering it to the Administrative Participant with notice to the other Participants, provided that such execution and delivery takes place prior to issuance of the RFP unless accepted by the Administrative Participant in its discretion. Upon and as of the date of such execution and delivery by such municipalities, they shall become Participants for all purposes under this Agreement.

JOINT SERVICE DESCRIPTION

The Participants hereby agree to cooperatively solicit proposals from qualified offerors to perform (1) interim maintenance of existing Participant owned municipal street lighting systems, (2) the conversion of existing Participant owned street light fixtures to LED technology, and (3) and follow-on warranty service and maintenance of converted Participant owned municipal street lighting systems.

This Agreement provides only for cooperative solicitation of offers or proposals and no Participant is under any obligation to enter into an agreement with any Offeror (defined herein) selected as a result of a solicitation performed pursuant to this Agreement.

PARTICIPATION

Participants shall each execute and deliver a counterpart of this Agreement to the Administrative Participant, together with a resolution authorizing participation in the Consortium, duly adopted by Participant's governing body in the form annexed to this Agreement as an Exhibit. Each Participant hereby agrees to:
Cooperate with the Consortium and the Administrative Participant in the execution of the Administrative Participant's duties and functions as set forth herein; and

Provide promptly such information to the Administrative Participant as the Administrative Participant may reasonably request in order for the Administrative Participant to execute its duties and functions as set forth herein.

Each party shall be responsible for its own costs with respect to this Agreement.

TERM AND RENEWAL

Each Participant's contractual commitment to participate under this Agreement shall be for a period of two (2) years from the date that the Participant adopts a resolution authorizing the execution of this Agreement and participation in the Consortium. Participation may be renewed by a Participant's delivery to the Administrative Participant of an authorizing resolution which adopts the most current terms of this Agreement.

MANAGEMENT

Administrative services and duties required by this Agreement shall be performed by the Administrative Participant. The Administrative Participant shall be the Town of Red Hook. The Administrative Participant shall also be a Participant under this Agreement and shall have all of the rights and obligations of a Participant.

AUTHORITY AND RESPONSIBILITY OF ADMINISTRATIVE PARTICIPANT

The Administrative Participant is hereby authorized and hereby agrees to perform the following duties for and on behalf of each Participant:
to prepare, disseminate and, if necessary or desirable, advertise, a Request for Proposals containing appropriate details and bid specifications as the Administrative Participant deems appropriate to solicit proposals from qualified contractors (hereinafter referred to as "Offerors") to assist Participants with energy efficiency conversion of municipal street light systems and to provide follow-on warranty and maintenance services, based upon the needs of Participants determined from information provided to the Administrative Participant by the Participants. The procurement process shall be conducted in accordance with the requirements of Section 104-b of the General Municipal Law and the procurement guidelines of the Administrative Participant, using a best value method. Participants otherwise are responsible for their own compliance with the requirements of any statute or regulation specifically applicable to them with respect to the solicitation of proposals;

in consultation with a representative designated by each of the Participants, and in accordance with such proposal specifications, to select one or more qualified service providers as determined by the Administrative Participant, or to reject any or all such proposals;

to determine the terms of a master form of contract (the "Master Services Agreement") for the performance of energy efficiency conversion and follow-on warranty and maintenance services of municipal street lighting systems. The form of Master Services Agreement shall be in such form or forms and contain such terms as the Administrative Participant deems to be appropriate; *provided, however*, that the decision to execute any Master Services Agreement shall be made by each Participant individually by the adoption of an appropriate resolution.

to perform such studies and gather such information as it deems appropriate to accomplish the purposes of this Agreement; and

to take all such other actions as may be reasonably necessary and appropriate to provide for the efficient administration and management of this Agreement.

NON-EMPLOYEES OF OTHER PARTICIPANTS

The Administrative Participant's officers and employees who assist or participate in the administration and management of this Agreement shall not be deemed employees of any other Participant. No Participant other than the Administrative Participant shall have any authority to engage the services of any person on behalf of the Consortium.

WAIVER OF CONFLICT RELATED TO PROFESSIONALS

Each Participant agrees that the services rendered to the Consortium by any Professional shall not form the basis for any Participant to claim that such Professional is, or should or shall be, (a) conflicted out of performing services for any other Participant or entity, or (b) disqualified from or otherwise unfit to perform services for any other Participant or entity.

TERMINATION OF AGREEMENT

Any party may terminate this Agreement at any time as to its own participation in this Agreement upon thirty (30) days' notice to the other parties. This Agreement shall survive such termination as to the remaining parties, and the provisions of Section 14 shall survive termination to the extent of any claims arising prior to the date of termination.

NO LIABILITY

The Participants understand that this Agreement only affords a cooperative solicitation service and that no Participant is in any way responsible for the purchase of or payment for services related to the solicitation unless and until the Participant executes a contract with an Offeror.

DISCLAIMER OF WARRANTIES

THE PARTICIPANT ACKNOWLEDGES AND AGREES THAT NO PARTY TO THIS AGREEMENT HAS MADE NOR HEREBY MAKES ANY REPRESENTATION, WARRANTY, OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF ANY WORK, LABOR, SERVICES OR MATERIALS PROVIDED BY ANY OFFEROR SELECTED IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT OR ANY SOLICITATION CONDUCTED IN ACCORDANCE WITH THIS AGREEMENT, NOR ANY OTHER REPRESENTATION, WARRANTY, OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO, AND NO PARTY TO THIS AGREEMENT SHALL BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OF OR TO THE PARTICIPANT OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE SERVICES PROVIDED BY ANY OFFEROR OR THE QUALITY, PERFORMANCE, OPERATION, OR FAILURE OF ANY STREET LIGHTINGS SYSTEMS AND/OR RELATED FIXTURES AND EQUIPMENT.

ASSIGNMENT AND AMENDMENT

This Agreement shall be binding upon and shall inure to the sole benefit of the parties hereto and their respective successors and assigns, provided, however, that no party may assign this Agreement or any of its rights or obligations hereunder. This Agreement may be amended only in writing agreed to by each of the Participants.

APPROVAL AND EXECUTION; WARRANTIES AND REPRESENTATIONS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. This Agreement shall be approved by each Participant's governing body in accordance with the requirements of law applicable to such Participant. By entering into this Agreement, each Participant warrants and represents that this Agreement is within its lawful powers, that this Agreement has been approved by its governing body in compliance with all applicable laws and procedures, that all necessary approvals necessary for execution, delivery and performance by such Participant have been obtained, that no litigation is pending or to its knowledge threatened regarding its execution, delivery or performance of this Agreement, and that this Agreement is lawful and binding upon it in accordance with its terms.

INDEMNITY AND INSURANCE

Each party agrees to indemnify and hold harmless the other parties and their respective agents and employees from any cause, claim, action, liability, fine, penalty, or proceeding (including reasonable attorneys' fees) arising directly or indirectly out of the negligent acts or omissions of such first party or its officers, employees, or agents with respect to this Agreement. This provision as well as the additional provisions of this Agreement are solely for the benefit of the parties and the parties intend no benefits to third persons.

Each party shall maintain liability insurance in the amount of not less than \$2,000,000, and statutory employee and workers' compensation insurance, in each case from a company authorize to issue such policies in the State of New York. Each party shall maintain automobile insurance on an owned and hired basis.

MISCELLANEOUS

Any notice or other communication given under the terms of this Agreement shall be in writing and delivered personally or mailed or delivered by facsimile (with copy delivered by mail) to the notice address or telefax number of the party provided herein with such changes as transmitted by such notice. All notices shall be effective when delivered, deposited in the mail, or delivered by facsimile, whichever first occurs.

Every provision of this Agreement is intended to be severable. If any provision is held to be invalid or unenforceable by a court or administrative agency of competent jurisdiction, all other provisions shall continue in full force and effect.

Paragraph headings have been provided for convenience of reference only and shall not control, affect the meaning of, or be used in the interpretation of any provisions of this Agreement.

The parties agree and understand that the Supreme Court, Dutchess County, New York shall have exclusive jurisdiction of any controversy or claim arising out of or relating to this agreement, or the breach thereof.

IN WITNESS WHEREOF, this Municipal Cooperation Agreement for the Mid-Hudson Street Light Consortium has been executed by the duly authorized officers of the undersigned.

Roll Call Vote:

Trustee Cheney	Aye
Trustee Lindberg	Aye
Mayor Newhard	Aye
Trustee Patterson	Aye
Trustee McManus	Aye

Discussion

Trustee Cheney: About a month ago we had a prior resolution that was to give us a tepid interest. At this point the consortium has moved to doing an RFP and the RFP is out on the streets and we're saying we want to continue that participation through the RFP process and that we will basically consider the RFP process and the outcome of that process as part of our decision as to whether to proceed with the street lighting. This does not commit us to buying any street lights or going to LED street lights.

Trustee Patterson: But this is our third go with this because the first one we advertised and we changed it a month or so ago because the price was different and now it's an RFP or am I thinking of the wrong...

Trustee McManus: We had one about a year ago to do the street lights which we changed a month or so ago and now we're on the third one. We don't have a copy of this resolution because?

Trustee Cheney: We did it a month ago.

Trustee McManus: Before that we did it about a year ago.

Trustee Cheney: We talked about it.

Trustee McManus: Then the rules changed somewhere and about a month ago we did it and now this is the third talk.

Trustee Cheney: We've discussed it before, yes. O&R has changed it's position relative to the price they would have for changing out the street lights and also maintaining them for us. That price has dropped so our return on investment instead of being maybe two or three years may be four or five years. If we decide to go that route or if we decide to stay with Orange & Rockland or if we decide to go with another vendor. The Town of Warwick is also involved in the consortium as is the Village of Florida. I'm not sure what the status of Greenwood Lake is but I think it would be ideal to have our communities here consider something possibly other than the RFP just to give us another number to look at and consider.

Trustee McManus: But we don't have a copy of this resolution because?

Trustee Cheney: I do. I didn't print them out. I can make copies.

Trustee McManus: I would have loved it beforehand per our guidelines.

Trustee Cheney: Sorry about that. Have you had a chance to look at it?

Stephen Gaba: I looked at the old resolution and I looked at the agreement but I'm not sure the new one just says to join the consortium? Just so we're clear Barry, correct me if I'm off base on this but the consortium goes out and solicits bids on behalf of the many municipalities in terms of street light maintenance, I think we're talking the heads and the bulbs basically. They have people come in and say we'll switch out your heads, we'll give you maintenance of your bulbs and here's the price we're going to give. That's what the consortium does. It tries to harness the buying power of multiple municipalities to get you a really good price. Then they're going to select which RFP they're going to offer to their members. You are free to reject that offer and say I don't want that RFP. I'm not going to buy into it or if you want you can buy into it. You really risk nothing as far as that goes. It's open ended. The whole idea is to list as many as they can behind it in hopes of driving down the price because the person who puts in the RFP is hoping that it will be good enough that all these people that are in the consortium will use them for the contract. You really don't risk anything.

Trustee McManus: I think we all understand that but when I'm expected to be voting on I'd really like to have a copy to review before the meeting when we pick up our packets. I'm okay with going with it I'm just saying for the future if it's not in the packet I don't expect it to be on the agenda to be voted on. We get addendums almost every time we walk in. It could have been laying on the table when we walked in.

Warwick Grove Resolution

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus to adopt the following amended resolution accepting deeds to the streets within the Warwick Grove Development – TABLED

Discussion

Trustee Cheney: The second motion is an amended motion accepting deeds to the streets within the Warwick Grove Development.

Trustee Patterson: Do we have to read that motion?

Trustee Cheney: That's the one we waived. What was the change? Why is it amended?

Mayor Newhard: The street names had to be part of it for DOT. We couldn't add it to our CHIPS and Pave New York.

Mike Moser: They wouldn't accept it adding on to the size of the Village for CHIPS unless we had every street in the resolution.

Stephen Gaba: I don't know why they did that. I'll tell you that the DOT sheets usually are accepted with the resolution. Why they wanted these in the resolution I don't know. But if that's what she wants that's what she gets.

Trustee Cheney: I have a question about what road E is. Could the Village Engineer review this?

Mike Moser: This came from summer intern. I don't know if Mr. Getz looked it over.

Trustee Cheney: I had some questions about Coe Street being .85 miles and there's also an End Street. I guess Road E appears to be the road that is in front of the community center because it's the only one that isn't named. Coe Street is a small loop at the very end of I want to say Cowdrey but I don't think it's Cowdrey.

Trustee Patterson: Have the folks at Warwick Grove reviewed this?

Mike Moser: I don't think so, no.

Trustee Patterson: Maybe they'd be the best people to have a look at it and make sure that everything is right.

Trustee Cheney: Well the tax map should show it.

Stephen Gaba: If there's a question about the streets you're better off tabling it until later on this month because you'll have to adopt an amended amended resolution.

Trustee Cheney: Most of them make sense but there are some of them...

Trustee Patterson: Well McFarland Drive the last line beginning at Forester and ending at End Street...

Trustee Cheney: Well it's White Oak, based on my calculations it comes out just about .73 miles from Forester to White Oak which is all the way past Hudson, Cropsey...

Mayor Newhard: End Street would actually be White Oak.

Trustee Patterson: I'm not comfortable voting on it until we've had a clear look and ask the engineer and the folks at Warwick Grove to put their stamp on it as well.

Trustee Cheney: I'll take a look at it between the tax map... I tried to do some of it tonight before the meeting but I couldn't get satisfied with the names and some of the distances.

Mayor Newhard: So we can table this.

A **MOTION** was made by Trustee Cheney, seconded by Trustee Patterson to table the motion. Five Ayes.

Mayor Newhard: So tell me something does the initial motion that we made to waive the reading of the resolution, does that hold?

Stephen Gaba: I think if it comes back after being (inaudible) it would hold. If you have to change it I think you have to make it again.

Warwick Grove Maintenance Bond

A **MOTION** was made by Trustee Cheney, seconded by Trustee Patterson and carried to release the Warwick Grove Maintenance Bond as per the recommendation of the Village Engineer and the DPW Supervisor. Four Ayes, One Nay (Trustee McManus)

Discussion

Mike Moser: This is about the condition of the road, the catch basins, just our general infrastructure. This doesn't deal with the names of roads.

Trustee Cheney: There were some areas that were required to be corrected by the owner prior to releasing the maintenance bond and according to our DPW Supervisor and Village Engineer who conducted an inspection they found that the repairs have been satisfactorily completed.

Trustee McManus: None of those inspections or punch lists were on the incorrectly named streets, like End Street?

Mike Moser: That wasn't covered. This is just for infrastructure.

Trustee McManus: But are they on those streets?

Trustee Patterson: The maintenance bond was established before the street names were established so I'm sure...

Mike Moser: The maintenance bond just covered the entire development. It doesn't say which specific streets or names it just says from here on in. It wouldn't affect End Street or L Street or whatever that kid put on this list.

Trustee McManus: I would like to see all the streets named correctly before we say the streets are perfect.

Mayor Newhard: But they are named. Go to the development and they're all named correctly. The DOT resolution was mostly about getting that mileage of X amount of miles into the inventory of streets so that we can use that for our CHIPS calculation and for any of the calculations that we have...

Trustee McManus: That's fine but I think that same measurement will be the same ones in two weeks... the streets that are listed incorrectly had the real names in the paperwork that we are accepting that we now know that everything has been brought up to standard and is correct.

Trustee Cheney: A list was prepared of the areas where there were inefficiencies. That list included street names. None of these street names that are in question that you'd have any question about were included in that list.

Mike Moser: No, sir. The only issues when we did the second section was a few sewer man hole lids labeled storm water instead of sewer; a valve box was broken, there was a chip in a cobblestone curbing...

Trustee Cheney: When you gave Leyland the list of the deficiencies, the location was noted or the street was noted, and then you went back with that list knowing where those locations were and you're satisfied that you're at the right spot and the corrective action was taken.

Mike Moser: Yes, sir.

Trustee Cheney: Given that I don't see a reason...

Community 2000 – Too Good To Toss Event

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Patterson to grant permission to Community 2000 to use the basketball court and surrounding area in Stanley Deming Park on Saturday and Sunday, April 21 & 22, 2018 for Too Good To Toss Event from 10 a.m. to 4 p.m. both days. Completed park permit, security deposit and proof of proper insurance have all been received – AMENDED

Discussion

Trustee Patterson: I feel like we need to change the time from Saturday, April 21 at 10 a.m. until Sunday, April 22 at 4 p.m. because whatever they have on the basketball court on Saturday is going to remain overnight so it's not as if the court is going to be open for anyone else's use. I actually think it should be later than 4 p.m. I think it should be closer to 6 p.m. Actually I think it should be potentially until Monday morning because that's when any leftover...

Mike Moser: We won't be able to pick up the rest of the stuff until Monday morning so the courts won't be able to be used until...

A **MOTION** was made by Trustee Patterson, seconded by Trustee Cheney to grant permission to Community 2000 to use the basketball court and surrounding area in Stanley Deming Park from 10 a.m. Saturday, April 21, 2018 through 10 a.m. Monday, April 23, 2018 for Too Good To Toss Event. Completed park permit, security deposit and proof of proper insurance have all been received – TABLED

Discussion

Trustee McManus: I want to clarify the two tents they say Village and Town... They're supplying the tents?

Mayor Newhard: Last year the Sesquicentennial Committee paid for the tent. It was not paid for by the Village.

Trustee McManus: Well who's paying for the tents this year?

Mayor Newhard: That is a request that they have to make to the Village Board.

Trustee McManus: So right now we're not approving us paying for any tents and last year we had a discussion after the fact that the Village wound up disposing and paying to dispose of materials that were not picked up by anybody or recycled by Big Brothers Big Sisters or anybody else on Monday morning so who is paying for that disposal? I don't think it should be the Village.

Trustee Patterson: If I may because I was right there with you on that question from last year and I have done a complete 180 on the entire event. What Mr. Moser reported after the event last year that it was less than half a truck and that is...

Trustee McManus: He said dumpsters last year.

Mike Moser: Less than one dumpster.

Trustee Patterson: For last year and the first time out of the box it was planned to have Big Brother Big Sister come on Monday morning to pick up and for all intents and purposes because the organization stuck so strictly to the list that was provided by Big Brother and Big Sister in accepting the items that were being donated that only that which was left would have been taken by Big Brother Big Sister but in this case there was a scheduling conflict or an emergency or something so they couldn't actually come. The good news is it was only half a dumpster but the better news is had Big Brother Big Sister come there would have been zero expense as far as removal of the leftover because they are diligent about what they take in.

Trustee McManus: Let's make the assumption that Big Brother Big Sister has an emergency this year and there's trash and disposal from people not only in the Town but probably from Vernon or wherever who brought stuff because there's no restriction on where people come to drop it off so the Village residents and the Village taxpayers are paying to remove this stuff from every place.

Trustee Patterson: Right except that back to my point that it's not actually trash because and again this is my opinion that they were so diligent about what they accepted for donations that it actually wasn't junk. It was literally things that were too good to toss. So we're not talking about post Applefest trash or even post-concert trash overflowing from the garbage we're talking about useable viable items that in the case of Big Brother Big Sister not being able to come won't have an impact and I had also asked Mr. Moser to give an idea... maybe one year wasn't a good way to determine it but to give us an idea of the difference in the amount that the Village DPW a week later had to end up removing from homes because people wound up taking it to Too Good To Toss and it actually went to a good place. It's not fair to ask that the first year so we'll ask that the second year.

Mike Moser: No offence to any of them but they put out more stuff. We were up this year with the amount of stuff we picked up.

Mayor Newhard: Going back to your comments George in the same way that there potentially will be a cost for the tent but also to the Town, maybe it could be shouldered by both the Village and the Town in terms of this...

Trustee Cheney: I think that's the intent that the request would go for basically a split of the cost and the two costs are the tent and the disposal afterwards of anything that remains.

Trustee McManus: Why can't the non-profit pay for a dumpster? We're giving something to a not for profit or non-profit, I'm not sure which they are that... yes it's a great organization but cleaning up from the entire Town and outside the Town should not be the Village residents' responsibility.

Trustee Cheney: Let me correct one part of it. They did not and intend not to this year accept anyone from out of Town coming in and dropping anything off.

Trustee Patterson: I think you're wrong about that.

Trustee Cheney: You do? Well, if they allowed it last year, I was told they're not going to allow it this year and I think we can require that.

Trustee McManus: I think we should have had some of the things that they're going to ask for and require people to do with their request for approvals.

Trustee Patterson: I'm unaware of that and I think it's counter to the event to limit it to just Village residents.

Trustee Cheney: No, Town...

Trustee Patterson: Even Town and Village residents...

Trustee Cheney: We don't care who comes on Sunday and takes it.

Trustee Patterson: Understood.

Trustee Cheney: But the drop off... I'm pretty sure that they had means to restrict it last year and certainly in my discussions the intent is restrict it to Town residents and Village residents only this year. In terms of... I think it needs to be looked at as the overall purpose of this and it's to keep material out of the waste stream and allow it to be reused by somebody who maybe wouldn't have gotten it in the first place but able to and would now have something that somebody else has used and gotten rid of. I think it's part of a bigger picture of ourselves as a Village Board helping the environment and helping with the reuse component of recycling.

Trustee Lindberg: Last year Sunday afternoon the place was very well kept. They stayed and they collected all the information they had stuff in sections and it was cleaner than...

Trustee McManus: I'm not arguing the event and I'm not arguing the purpose... if there are going to be rules that they are going to use to how it's going to work, limiting outside the Town and Village before we give approval we should know all of that and we should

know if we're going to wind up footing the bill for the removal of trash and stuff that's left there. It's just yes, use the basketball court for the weekend, that's fine but there's other questions involved no one's giving us answers to that are part of the operation as to what we're approving.

Trustee Patterson: It's news to me there were any rules about who could drop off and who could shop there. We don't have those rules to the summer concert series that uses the basketball court or the sports teams that use the basketball court or any other event that takes place there. We don't say that you have to show ID to get in so if there were rules I'm unaware that there are any. I don't think there should be. As I said this is a complete 180 from last. I think it's an amazing event. I read the feedback from the people who came and there was a lot of it. People took the time to write a note to say what an amazing event it is and I would like us to let it kind of organically grow and so I don't think we need to restrict it to Village or Town residents. I think if on Monday morning if it goes the way it went last year and they are as diligent this year as they were last year I believe that the DPW crew will have the same or less items to take away. I'd like to give it another year and if it's crazy then we sit back and think about but I don't want to make judgements after such a successful event last year... I don't want to make judgements and restrictions on it this year. I do want to ask the Town to help pay for the tents.

Trustee Cheney: They are asking. They have a request in front of the Town for financial support.

Trustee Patterson: If I had to vote right now I would vote yes pending clarification on who's paying for the tents but other than that and again I was really against it last year... other than that I have no problem.

Trustee McManus: I say let's wait two weeks, three weeks and let them give us the information.

Trustee Patterson: We have time for that. I can go along with that.

Trustee Cheney: Well all this is doing is approving that there would be two tents there. This is not setting any ground rules or offering to pay for any tent.

Trustee McManus: But before we give them that we should know what they expect from us. Do they expect us to take away whatever's leftover on Monday morning?

Mayor Newhard: But that's not what they're asking here.

Trustee McManus: But they're not telling us what they're doing.

Mayor Newhard: Many people do that.

Trustee McManus: Maybe those many people should be guided in better on what they're requesting.

Mayor Newhard: I'm just saying there are many events that happen and that we don't restrict them from doing one thing or the other. If they have the insurance and they have a Village resident that signs it and it moves forward and people from all over this community and beyond the Village and Town of Warwick enjoy those events and so be it. We can't micro manage...

Trustee McManus: They're asking to hold an event that has the potential after it to costs to this Village...

Trustee Patterson: No they're not.

Trustee McManus: Yes they are. We don't know if they're picking up their garbage or we are and I think they should tell us.

Trustee Patterson: You're kind of yelling at me and I would like you to not do that. What I'm saying is right now they're asking to use the park. That's it. There's no letter here unless I'm missing it... there's no letter here explaining the event and the reason that I know that is because I'm probably going to be on this committee because I volunteered to be on it. I think I would have known if we were writing a letter. So right now, even if I wasn't on the committee as we have here is a facility use request. We don't have a request for DPW. We don't have anything more than that and I think the only thing that needs to be clarified here is who's paying for the tent.

Mayor Newhard: That's a separate request and also a request for the final cleanup, that would be a request.

Trustee Patterson: We can go back to them and say...

Trustee McManus: There was no request for final clean up last year they just kind of assumed that the Village would...

Mayor Newhard: We clarified that that assumption should not be made.

Trustee Patterson: There was a specific request... Mr. Moser and Michael and Bill were fully aware of it because it came through the Sesquicentennial and now we don't have a Sesquicentennial Committee this year and so my suggestion is we approve or deny this request and go back just as the Clerk would do with the response to the request and say

can you please provide us with more information and/or other requests that you're going to need from the Village in April. Right now it's just can they use the park and will be pay for tents because that is in here.

Trustee Cheney: It says they're going to have two tents.

Trustee Patterson: No it doesn't. It says is Village equipment required, yes. If needed state type and for what purpose and it says tents as though the Village owns tents which we don't. We'd have to rent them. For that I would like some clarification.

Mayor Newhard: Do you want to table this until we have that further information?

A **MOTION** was made by Trustee Patterson, seconded by Trustee Cheney and carried to table the motion. Five Ayes.

Village Elections

A **MOTION** was made by Trustee Patterson, seconded by Trustee Lindberg and carried to appoint Joan Putnam, Janet Folino, Deborah Sattler, and Amelia Lawlor as Election Inspector, and Janet Fivehouse as an Alternate Election Inspector for the upcoming Village Election on Tuesday, March 20, 2018. Five Ayes.

Discussion

Trustee Patterson: Don't we have to say how much the pay rate is or no? Don't we usually say that.

Stephen Gaba: If you have a set amount you don't have to. If it's annually you should set it.

Trustee McManus: It's hourly.

Stephen Gaba: It's a set amount then. I assume you have an established set amount.

Trustee Patterson: Yes, we do.

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to appoint Michael J. Batz, Sr. and Elizabeth Doty as Machine Operators, and Noel Thompson as Alternate Machine Operator for the upcoming Village Election on Tuesday, March 20, 2018. Five Ayes.

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to appoint Duane Joslyn as Machine Custodian for the upcoming Village Election on Tuesday, March 20, 2018. Five Ayes.

DPW Supervisor's Report

Mike Moser: Curb side leaf pickup has been completed and Christmas Trees have begun to be picked up today. If we don't pick up your Christmas Tree and you feel the need to bring it we do not accept them at the Village barn you have to take them to the Town recycling. As you pull in the Town DPW facility it will be on the right-hand side. It's clearly marked. The pavilion parking lot project has been started tree clearing, brush cutting, drainage and leveling all done internally by my men. The weather put us back a few times but we'll get back to that as quickly as we possibly can. The whole crew participated in flagger and bucket truck training. A couple guys also received backhoe training so I have more people that can help us dig. We completed the drainage project on Orchard Street from the County road construction job. We filled potholes and ditches. We conducted inspection of all Village owned facilities with the Comp Alliance Inspector. We fixed a water leak on South Street. We repaired catch basins, we had a few snow and ice events. We constructed a guardrail on John Street. We did all the 811 Digsafe requests. We repaired the dry well system at the Sanford Monument; hung lanterns on poles and decorated outside the Village Hall. The brush pile is now closed and has been grinded to be used as mulch and other composting projects. All parking meters that had work order complaints were repaired or replaced. The free parking cards have now been removed. The holiday festivity is now over. Time capsule marker was installed for the 2067 opening. We did receive a CHIPS reimbursement check for the summer paving projects. Thank you to Cathy for keeping all my records straight for the State. Winter preparation for the vehicles and equipment, mowers and picnic tables were put away, plows and sanders were put on. We assisted the Gardeners Club with the Railroad Green Christmas decorating. We worked with TAM on the video and clean sewer mains in possible problem areas. We reattached a concrete ball on top of the Sanford Monument. We began taking care of Warwick Grove during the snow events and picked up the leaves as well. So far so good, no complaints no issues. We assisted with the installation of insertion valve on Forester Avenue by the contractor and also that night we repaired the leaking valve in that area. For the Apple Eve event we did all the Railroad Green preparations, time capsule prep, set up and take down and the apple drop. Thank you to all the guys who helped especially Chris Kane, Dalton Procak and Mike Finelli who were outside all day on Sunday. Also, just so you know we are still in a drought condition. We have had very little precipitation to replenish the reservoirs so even without outside usage at this time of year we are asking that you conserve water in as many ways as possible. Hopefully the winter months will restore us to capacity but until then the residents should conserve water when they can.

Trustee Patterson: Can I ask a question because I've been asked and I've seen the question asked. What is the Christmas tree pick up... starting when?

Mike Moser: It started today. It went in the paper I think for the next two weeks we'll pick them up at curbside as long as they're not still lighted and decorated. We take them to the Town and they chip them there.

Trustee Patterson: Can I just ask that we put that note on the website and in addition to that could we put it on the Facebook page because it is getting asked a lot and it's a great service. Just for two weeks?

Mike Moser: Well we'll keep going if they're out there. We're not leave them on the side of the road because it's only going to impede us for plowing. The next two weeks will be the focus.

Trustee Patterson: With the bulk pickup once you've hit that road you don't go to that road again.

Mike Moser: It's a little different. We like to try to do the leaves all at one time but we're still picking here and there. It's not like the bulk pickup where we have the dumpsters for a certain amount of time.

Mayor Newhard: We mulch up those trees, right?

Mike Moser: The Town is mulching them up.

Mayor Newhard: I wanted to thank you and your men for all the preparation for Apple Eve and it was such a long cold day. This weather has been brutal on a regular day but that was tremendous and thank you to your men they were excellent, above and beyond. We truly appreciate it. It was a nice way to end the Sesquicentennial year and all the work that we've done and accomplished. I wish it had been about 25 degrees warmer. I just want to thank all the generous volunteers and businesses that donated food and were part of the festivities. I can't thank you enough. The apple did come down right on time. It was a terrific event and I'm hoping that it can happen year after year. I just hope that next year won't be as cold.

Trustee Patterson: As part of the Warwick Together Visioning process one thing that came up and why wait until all the results are tallied, I thought I'd just throw something out there... good ideas that came up during the process at the meeting that I was at was that the Boards of the Village of Greenwood Lake, the Village of Florida and the Village of Warwick in addition to the Town, if we as Trustees start to reach out to a Trustee on the other Boards just so that maybe I would report or somebody would report on the

concerts that are going on in Greenwood Lake so that we can start to bring the community together. That is one issue that comes up. There is the perception that there is a divide between the three Villages that are part of one Town. I don't think we all have to reach out, I think if we each take a Village and just kind of report back. It can be an email. I'm not saying go to their meetings. It could just be a quick email.

Mayor Newhard: Or if we got their agendas on a regular basis too, just to know what's going on.

Trustee Patterson: I just think if we knew they were having the bed races or their concerts. I just wanted to see what you thought about that.

Mayor Newhard: Would you meet with me and we can discuss that?

Trustee Cheney: I will point out that I know Greenwood Lake has a very good website and so all their information is pretty much there. The Town has a pretty good website. I'm not sure about Florida's. From a project related basis there are ongoing discussions amongst them.

Trustee Patterson: I'm not negating the benefit or the value of the information that they put on their individual websites or Facebook pages or in the paper, I would like us to connect is what I'm saying, as Boards to have a connection between the Boards for whatever reason. It doesn't have to be if they're having a negative issue or something that has to do that we have no purview in or business dealing with, just some small thing that we can do to bring the communities more aligned. The Town does a great job of keeping us connected.

Mayor Newhard: Even in a social way it would be a nice thing. Not so much a meeting but the same way that Mayor's and Supervisor's meet once a month, it would be neat.

Trustee Patterson: That is actually better than emails.

Adjournment

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

Barbara Ranieri
Deputy Clerk