

Minutes of the Regular Meeting, of the Board of Trustees, of the Village of Montgomery is held in the Meeting Room at 133 Clinton Street, Montgomery, NY 12549 on Monday, December 3, 2018 at 7:30 pm.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek, Trustee Hembury, Trustee Lindner, Atty. Dowd, Village Clerk Rivera-Fernandez, Police Chief Walsh, DPW Supt. Nelson, Charles and Kathryn Bodensieck, Ed Malley, Steve Snyder, Laura Fitzgerald, Maria Beltrametti, Don Berger, MaryAnn Lindner.

Mayor Brescia opened the meeting with the Pledge of Allegiance to the flag.

**RE: MINUTES**

Moved by Deputy Mayor Scheels, seconded by Trustee Andolsek, the Board approved the minutes of November 6, 2018 and November 20, 2018. Motion carried, 5-Ayes, 0-Nays.

**RE: ABSTRACT NO. 11 - 2018**

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, all bills listed on ABSTRACT NO.11-2018 were audited and approved for payment with \$408,349.61 from the General Fund, \$15,692.59 from the Water Fund, \$21,608.53 from the Sewer Fund and totaling \$445,650.73. Check No: 76453 – 76535, 1297 -1313. Motion carried 5-Ayes, 0-Nays.

Treasurer Griffith reported a CASH BALANCE for the month of November 30, 2018, as follows: General Fund \$2,227,597.64, Water Fund \$130,774.60, Sewer Fund \$353,763.70.

**RE: REPORTS – DEPARTMENTS**

DPW Supt. Nelson reported on the water main break at Viking Heights on Meadow Lark Road. He informs the Board that it is likely to be continue to happen, due to the weather.

The next issue is the garbage. He was able to obtain a verbal agreement with IWS to take our garbage for \$95.00 a ton. They will not sign a written contract or give us a time frame honoring this price either; the transfer station price is \$104.00 a ton. They are a competitor for Taylor Recycling. He feels as time gets close for Taylor to be operating, our price will increase as well. Mayor Brescia mentioned China has stopped taking a lot of the recyclables. DPW Supt. Nelson said the recyclables is the next issue that needs to be addressed. He has come up with a possible solution to make the recycling a cheaper venture. He is asking the Board is to have the residents separate the recyclables again; the newspapers and cardboard. The best way for this to happen is by altering the pickup weeks. Therefore, picking up the glass and plastic one week and the newspapers and cardboard the following week. This would allow us to maintain a single crew, instead of having two crews for the collection of the recycling. Mayor Brescia asked if we are going to be charged for the newspapers and cardboard. DPW Supt. Nelson said he still has to calculate it, as it is now, it is \$15.00 dollars for the newspapers. If we take the newspaper and cardboard to single stream, it is \$65.00 a ton. However, if we separate it, it is \$40.00 for the glass and plastic and \$15.00 for the papers. Yearly it would cost us \$24,000.00 for the recycling at \$65.00 a ton; by separating the recyclables and pay for it separately, it would cost us about \$9,500 a year. Mayor Brescia asked Buddy to tabulate the different variations on paper and review the options at the next meeting and adding when it would begin. DPW Supt. Nelson is hoping to begin the recycling changes in February or March. He has to speak with John Formisino; he was paying

us for the paper. If he continues to pay us for the paper or offers to take the paper at no cost, it would be a cost savings for us. We generate 1,500 tons of garbage a year.

Furthermore, we are trying to get work done at the Holt Well, but the height of the ground water is about four and half feet; and having to dig nine feet, it's impossible to dig. We could only get to five feet and it was total collapse. He does not want to compromise the new building, and therefore he was forced to stop working. If we get two to three weeks without rain, we might get lucky.

Mayor Brescia mentioned the Village Hall front windows will arrive and go in on December 11<sup>th</sup>. Hopefully they can install and seal them seamlessly. Will the tree lights be done by Saturday?

DPW Supt. Nelson said we are working on the tree diligently, even with a bigger truck, it still isn't moving the process along any further. Our cherry picker is too small and the bigger truck is too big. Regardless, we will continue to work on the tree lights.

**RE: APPROVE PAYMENT FOR THE PROSPECT TERRACE WATER TANK REPAINTING**

Moved by Trustee Andolsek, seconded by Trustee Hembury, the Board approved Lanc and Tully Payment request #1 and #2 for the Prospect Terrace Water Tank Repainting to Pittsburg Tank & Tower Maintenance Co., Inc. in the amounts of \$63,370.64 payment #1 and \$3,387.93 payment request #2 for a total of \$67,758.56 as the contract work was completed on time and on budget, the DPW Supt. Nelson has reviewed and accepted the contract work performed. Motion carried, 5-Ayes, 0-Nays.

**RE: EVENTS**

American Legion 521, Pearl Harbor Remembrance is on, Friday, December 7<sup>th</sup>, at 10:00 am, at the Parkland Pavilion by the River with light refreshments at the Recreation Center after the service.

Village of Montgomery Old Fashioned Holiday is on, Saturday, December 8<sup>th</sup>, 11 am to 4 pm,

Santa will be riding around the Village from 12:00 to 1 pm, Santa will be at the Village Hall beginning at 1:00 pm to 3:00 pm and Mrs. Claus will be reading in the courtroom, in addition to music at the Clinton Street Bandstand. Skip Chambers will be giving wagon rides in the downtown area.

Historic Montgomery Holiday Tour begins at 1:00 pm to 4 pm, tickets are available at the Village Hall, for \$15.00 in advance and \$20.00 at the door. Pick up maps & brochures at the First Presbyterian Church 137 Clinton Street.

**RE: LEAF PICK UP**

Leaf Pick Up begins on November 20<sup>th</sup> through 12/18/2018 on Tuesday's must be bagged & placed curbside by 7:00 am.

**RE: CHRISTMAS TREE PICK UP**

Christmas tree pickup begins on Tuesday, December 26<sup>th</sup> through Friday, January 11<sup>th</sup>. Residents are asked to remove all garland, tinsel and decorations.

## **RE: DEPARTMENT REPORTS – POLICE DEPARTMENT**

As a reminder, the Village of Montgomery PBA is holding their annual toy drive, residents could bring an unwrapped toy to the Police Department lobby during business hours. The toys are then distributed to the needy families with the assistance of the Montgomery Elementary School.

Lt. Herlihy will be conducting training at the academy for firearms of the new recruit class that is currently in session, as well as the breath analysis operator course which he instructs annually. We also recently received our child passenger seat grant through the Governors traffic safety committee, in the amount of \$650.00 which funds the attendance of our seat tech, to attend the training conference. We will be sending Officer Narain again to the conference.

## **RE: REPORTS CONTINUED – TOYS FOR TOTS**

Trustee Hembury reports on the Toys for Tots being a success yesterday, we received 990 toys on the tour. The Village of Montgomery received 150 less than Campbell Hall, we always beat them but they beat us, so jokingly; we egged their caboose yesterday. Its fun and all for a good cause. However, today, he came home to find fifteen toys in front of his garage. We will include them, the post office delivered them in a Toys for Tots box. Everything went great! We were afraid of the rain coming in but Skip Chambers, he comes through all the time. He put hay down and DJ Eric put an overhang up. The Village of Montgomery Police Department were there. Marc Kelleher and Jan Leonard were there. My wife and Jenn were elves again this year.

Mayor Brescia thanked Trustee Hembury for all he does. Trustee Hembury thanked everyone for making this a successful event.

## **RE: PROMOTE POLICE OFFICER TO FULL TIME SERGEANT POLICE OFFICER**

Moved by Trustee Andolsek, seconded by Trustee Hembury, the Board promoted Police Officer Brian Briere to Full Time Sergeant Police Officer position effective as of December 3rd, at the rate pursuant to CBA. Motion carried, 5-Ayes, 0-Nays.

Mayor Brescia invited the newly appointed Sergeant Brian Briere to be pinned and congratulated him. He's accompanied with his family, and his son that is currently a Deputy with the Sheriff's Office. The Board, the Chief and our fellow officers, we are all proud of you. All present cheered and clapped. Mayor Brescia mentioned officiating Brian and Donna's wedding, their wedding is the first he performed out of 150 ceremonies later, and they are still together; good family, good stock! Officer Bodensieck said out of all the people he has his locker next to him, he's the best guy. The Police Chief said since he has been here, which is seven years now, Brian stuck out from his first day. He is so dedicated to the Village of Montgomery, he amazes me with his dedication to the Board, to the Village residents. If you have ever dealt with Brian in his capacity as a Police Officer, you know exactly what I'm talking about. Brian cares so much about this Village. It's so great that we make him the first Full Time Sergeant to the Village of Montgomery. Mayor Brescia said absolutely, here, here! Crowd clapping..... He is always professional and serves us proud, respectful and keeps his composure.

Village Clerk Rivera-Fernandez administered the Oath of Office to Full Time Sergeant Brain Briere. She congratulated him.

Mayor Brescia said your official now, get back to work!! Laughing... Sergeant Brain Briere said thank you.

## **RE: PUBLIC PORTION**

Mr. Berger wanted to bring up a few issues that he mentioned previously. He asked DPW Supt. Nelson about the status of Boyd Street pavement. DPW Supt. Nelson stated, he is meeting with Central Hudson in the next few days regarding this issue and they will pay to have it resorted as well. Mr. Berger inquired on the status of the Master Plan. He also asks that the senior housing overlay be revisited for the Route 211 proposed Senior Housing development in the Master Plan.

Deputy Mayor Scheels stated they have been speaking together to reconvene to address a several issues that have changed, since the last draft was done. We will reconvene to provide a final draft of the Master Plan, a public hearing will be set as well.

Steve Snyder asked if the Board is at all involved in the Medline Industries warehouse project regarding traffic coming through the Village. Mayor Brescia stated receiving information of the Public Hearing. No one has contacted the Village regarding the traffic, he will contact David Church from the Orange County Planning Department to inquire.

Trustee Lindner mentioned receiving information from the Town Planning Board regarding the impact statement.

Mr. Snyder asked if that is part of the traffic study, and does that include the two proposed warehouses on Route 211, in the Village of Montgomery. He mentioned the proposed project on the opposite side of the street is very congested development plan in one area of the Village. He further asks what kind of business is proposed the warehouse on Route 211.

Trustee Lindner stated he is sure that is part of the process, to include the traffic study. As soon as the applicant applies, they are in the process of conducting the impact with all the proposed projects and its affects to all concerned. It is a State road, and therefore, the State will have to take the three proposed project into consideration, which will also include the sight distances, turning lanes.

Atty. Dowd replied the proposed business for the warehouse on Route 211, is an ecommerce, sporting goods... trampolines, bicycles, and other sort of these type of items, they package them, possibly assemble them and ship them out. His foot print of the two warehouses is the smaller facility of ninety thousand square feet.

Deputy Mayor Scheels stated the other proposed warehouse is two hundred thousand square feet and is not projected for anything as of yet.

Mr. Berger asks the Board about requesting a traffic study for the three main projects in the Village.

Trustee Lindner stated it has already been requested of all three project developments.

Mr. Snyder mentioned hearing about Maybrook putting a moratorium on certain size vehicles going through the Village, he's sure if it's true. However, coming through the Village in the morning is tough with the elementary school traffic and on down to the traffic light too. Could the Village mandate large vehicles to use Neely Town Road, instead of them coming through the Village?

Mayor Brescia does not think that the Village can do that, but will certainly look into it. He imagines there is a certain amount of tractor trailer traffic that comes through the Village. However, you do not see tractor trailer traffic coming from Allegiance or any of the other businesses on County Route 99, unless they are delivering locally; they would be crazy if they do

come through the Village to be honest with you, nobody wants to stuck in that traffic. They are going to 84, to the Thruway, to 17. (Inaudible – too many speaking over each other).

Mayor Brescia asked Ms. Beltrametti to wait for her moment to speak.

(Inaudible – too many speaking over each other).

Mayor Brescia asked Atty. Dowd to provide an update at the next meeting, regarding what the Village is able to do regarding the traffic and regulating the large vehicles coming through the Village. (Inaudible – too many speaking over each other).

Ms. Beltrametti mentioned frequently seeing a huge FedEx tractor trailer, which have a depot on County Route 99. She happen to be traveling from Goshen, thus following behind a FedEx tractor trailer, coming out off of County Route 99 and into the Village and turned right at the traffic light toward Scotts Corners. First of all, they were not adhering to the Village speed limit, and especially through the school reduced speed limit. He didn't stop at the gas station nor did he stop at Benson's Deli. Regulating the traffic is the best. She feels it is being done to possibly avoid a weigh station, as she has heard many times over. There is no good reason for them to come through the Village, it slows them down to say the least. She has spoken to the Police Chief Walsh regarding this issue.

Police Chief Walsh mentioned speaking with Ms. Beltrametti previously that perhaps commercial vehicles were attempting to avoid a weigh station, traveling west bound on 84. He states traveling in this direction, reporting to work and see when the weigh station is open. On several occasion, he has designated one of our officers to observe from Route 211 and 17K to count the trucks. They counted the trucks on a day that the weigh station was closed and there was not difference. If fact, this was observed on two separate occasions, it could also be done again, he feels the outcome will not change.

Mayor Brescia did say there will be an increase of vehicle traffic once Medline reaches fruition, of shift employees, depending on the when shift their changes will occur. He will make it a point to attend the Towns Planning Board scoping session for Medline, however, due to conflict he may arrive late and they are keeping us more informed lately.

Atty. Dowd also said it depends on what direction most of their employees will coming from.

Ms. Beltrametti asked DPW Supt. Nelson if he is happy with the Catalyst crew. It seems to her they work great, even though it was an unpleasant surprise to the shops of 2 Union, they really pulled it together, it looks fantastic. When it rained last, with new curbing at the Deli there was no flooding. Where did the water go? The guys are certainly easy on the eyes! At the last meeting she recalls a topic of granite curbing at the municipal parking lot, she feels it a waste.

Mayor Brescia hopes the flooding has been resolved. We have been approved to receive for \$75,000.00 for draining improvements on Clinton Street. The granite curbing at the municipal parking lot will hold up to the cars and be an improvement over the black top curbing.

DPW Supt. Nelson stated it is not a guaranteed as of yet. (In audible – too many speaking over each other).

Ed Malley asked what deterred Target from coming to the Village and is the proposed development smaller design.

Mayor Brescia replied the deterrent for Target was due to the size of the development. Yes, Target was close to a million square feet. The current proposed development is two hundred thousand, it if comes to fruition. We are talking about lowering the height restrictions because of what occurred with the construction on Dunn Road. They built it in conformity with our code, as it turns out they had two sets of plans, one that was submitted to the Planning Board and another to the builder.

(In audible – too many speaking at the same time and talking over each other).

Mr. Malley asked what is going to happen. Let it be what is, and its ok!

Mayor Brescia said we are looking to lowering the height because of has occurred. The building was built to the Village code height limits, but that is not was submitted to the planning Board.

(In audible – too many speaking at the same time and talking over each other).

Trustee Lindner stated what happened was that they baited and switched. They had a plan that was loosely drawn, they said it was going to be no higher than this; everyone said fine. On the final plans the only thing that is on there, is the code, therefore, that is what they did. They build it to the code rather than the submitted plan. We caught them on it and stopped the building and in the end, we were stuck because code reads less than thirty five feet and that is what it is. Moving forward, for the future the only thing we can do at this point is to change the code.

Mr. Malley stated being a taxpayer and wants to know what is happening behind his house. He feels what's happening is going to devalue his home. He feels the zoning should have never been changed. You know what is happening down there.

Mayor Brescia stated that zoning was always allowed for a warehouse. A number of things could have built there such as a sanitarium, a quarry, as well as other uses in the I-1 zone.

(In audible too many speaking over each other). We cannot control who buys property, anyone who buys property has the right to build within the code. There may be individuals that may not like it but if it is allowed, it's legal.

Mr. Snyder asked what code was used to build the structure on Dunn Road, New York State or the Village Code. Montgomery can override the NYS building code in certain aspects, can it not?

Trustee Lindner stated the structure built on Dunn Road was done using the Village of Montgomery building code, for that particular zone.

Mayor Brescia stated it Village of Montgomery and NYS Code combined. No, the Village Code cannot override the NYS building code, only under special conditions that are voted on by the Code Counsel by the State of New York. If a community has special conditions, such as high winds more than ninety percent, they can go to the buildings NYS Code Counsel and ask for special exception, a variance. If it's granted then yes, the NYS building code can be overridden. We cannot adopt a code that is more stringent than the State of New York, without the State of New York's approval.

Atty. Dowd stated you have to remember there are two codes, one is our zoning code that we control and the other is state building code; according to our zoning code, he is in compliance. It may have not been what the original plans called for. They claim the mistake was done by the individual who submitted it. If they had come in, we would have had to say it was ok and satisfactory because it's under thirty five feet. The FAA said, put a red light on it and there is no

problem. The building is a pole type of structure and it has not been completed yet. It will be completed according to the state building and fire codes.

Mr. Snyder understands that each municipality can have different variations of a building code and add certain verbiage into that were not in the code book, stating this is what we want. He is familiar dealing with inspectors that is his question, regarding additions to the code. So you do not run into this sort of situation in the future. If plans are presented, the building inspector should go through it; to be ensured of what is being built is done a presented.

Atty. Dowd stated what happened was that the building inspector saw the approved plans approved by the Planning Board and the architectural drawings submitted to the builder, by the applicant, did not have the proper specifications approved by the Planning Board. Therefore, by the time the building was up, it was realized, it was higher than the plans submitted to the Planning Board. The Building Inspector issued a stop work order, it is still below what our zoning code allows. Had the applicant originally come in with the proper scale drawings of thirty two feet, the Planning Board would have said ok, as long as the FAA was in agreement with height.

Mr. Snyder further understands now, there were two sets of plans. Everybody has to be on the same page, the Planning Board, the Building Inspector, and the Board of Trustees, you cannot let them bait and switch on the prints, he's has seen it happen. He's been on jobs like this.

Mayor Brescia said now we going to start asking of this F-160 approval from the FAA, as a standard procedure of the Planning Board. We are also looking to reducing the height requirements in the industrial zone, from thirty five feet to possibly thirty feet or less. We are looking for recommendations from the County of Orange, as soon as the OC Airport obtains their own engineer. We are certainly going to do that, we recently had a work session with the Planning Board not too long ago on this project. We also had a work session with the AHRB tonight on a few issues, as well as solar.

**RE: ADJOURNMENT**

Moved by Trustee Andolsek, seconded by Deputy Mayor Scheels, the Board adjourned the meeting of December 3, 2018 at 8:17 pm. Motion carried, 5-Ayes, 0-Nays.

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Monserrate Rivera-Fernandez, Village Clerk