

Minutes of the Regular Board Meeting, of the Board of Trustees, of the Village of Montgomery, was held in the Village Hall Meeting Room, at 133 Clinton Street, Montgomery, NY 12549, on November 16, 2021, at 7:30 pm.

Present: Mayor Brescia, Deputy Mayor Scheels, Trustee Andolsek (absent), Trustee Hembury, Trustee Lindner, Atty. Frank, Village Clerk Rivera-Fernandez, PB Chrm. Conero, Don Berger, Justin Lynch, Randi Picarello, Walt Pahucki, Mary Ann Lindner, John S. Vero.

RE: CALL TO ORDER WITH THE PLEDGE OF ALLEGIANCE

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

RE: MINUTES

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board approved the minutes of November 3, 2021. Motion carried, 4-Ayes, 0-Nays.

VETERANS CORNERS FLAG DISTRIBUTION

Trustee Hembury mentioned the distribution of American flags at Veterans Corner, on Veterans Day, was well received and thanked the volunteers who assisted him and his family. Individuals were interested in making a monetary contribution and he advised them to donate to the American Legion.

Mayor Brescia thanked Trustee Hembury for doing this. It is very patriotic.

REQUEST TO MEET WITH BOARD

None

RE: OLD BUSINESS

The Board held their discussion on the UTC Telephone System contract, for further review.

RE: NEW BUSINESS

ADOPT A RESOLUTION AUTHORIZING DEPUTY MAYOR SCHEELS TO ENTER INTO AN INTER-MUNICIPAL AGREEMENT WITH THE COUNTY OF ORANGE, THROUGH ITS OFFICE OF THE AGING, FOR THE SENIOR DINING PROGRAM HELD AT THE SENIOR CENTER TO CONTINUE THROUGH DECEMBER 31, 2022, WITH COMPENSATION OF COST NOT TO EXCEED \$26,877.00.

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board adopted a resolution authorizing Deputy Mayor Scheels to enter into an Inter-Municipal Agreement with the County of Orange, through its Office of the Aging, for the Senior Dining Program held at the Senior Center to continue through December 31, 2022, with compensation of cost not to exceed \$26,877.00. Motion carried, 4-Ayes, 0-Nays.

CONSIDER WAIVING AND APPROVING THE 30-DAY ADVANCE NOTICE FOR CHEF JUSTIN LYNCH LLC, AT THE BOURDON RESTAURANT TO SERVE ALCOHOL AT 91 CLINTON STREET, MONTGOMERY, NY 12549

Moved by Deputy Mayor Scheels, seconded by Trustee Hembury, the Board waived and approved the 30-Day Advance Notice for Chef Justin Lynch LLC, at the Bourdon restaurant to serve alcohol at 91 Clinton Street, Montgomery, NY,12549. Motion carried, 4-Ayes, 0-Nays.

SET PUBLIC HEARING DATE FOR INTRODUCTORY LOCAL LAW NO. 7 OF 2021 TO CONSIDER ADOPTION OF OPTING OUT OF LICENSING AND ESTABLISHING RETAIL CANNABIS DISPENSARIES, AND ONSITE CONSUMPTION ESTABLISHMENTS IN THE VILLAGE OF MONTGOMERY

Moved by Trustee Hembury, seconded by Deputy Mayor Scheels, the Board set a Public Hearing date to be held on December 7, 2021 at, 7:15 pm, at the Village Hall Meeting Room, at 133 Clinton Street, Montgomery, NY 12549, for Introductory Local Law No. 7 of 2021, to be considered for adoption for Opting Out of Licensing and Establishing Retail Cannabis Dispensaries and On-Site Cannabis Consumption Establishments within the Village of Montgomery. Motion carried, 4-Ayes, 0-Nays.

ADOPT A RESOLUTION AUTHORIZING MAYOR BRESCIA TO ENTER INTO A SERVICE AGREEMENT BETWEEN MILLENNIUM STRATEGIES, LLC, AND THE TOWN OF MONTGOMERY, THE VILLAGE OF MAYBROOK, THE VILLAGE OF MONTGOMERY AND THE VILLAGE OF WALDEN FOR GRANT WRITING SERVICES WITH COMPENSATION OF COST NOT TO EXCEED AN AGREED AMOUNT PER ANNUM, THROUGH DECEMBER 31, 2022

The Board held their decision for further review. Mayor Brescia mentioned there are concerns with the (IMA) Intermunicipal Agreement with the division of how the grants will be applied for. He asked Atty. Frank to provide a synopsis on the service agreement.

Atty. Frank said with respect to the Millennium contract for grant writing services, there is supposed to be an agreement signed off on by the Town and the three Villages. In reviewing the agreement, and speaking with the Attorneys for both Villages, Maybrook and Walden; of course, everyone supports grant writing services and getting money, it's one agreement for all of the municipalities. We need to hash out the details on... for example: one grant might be good all of the municipalities, how are Millennium going to decide who they are going to apply on whose behalf. He has spoken at length with both of the other Villages, we are going to do a video calling, so that we can enter into an IMA and those issues are worked out beforehand, to avoid a fight down the line

Trustee Hembury asked what would happen if we enter into an agreement on our own.

Atty. Frank replied, each municipality would enter into a separate grant writing contract. Right now, it is set for the Town to pay this one. Out of the Town's A fund and the services get distributed between the Town and the three Villages. However, there is nothing stopping any Village or the Town to enter into a separate agreement. If we can figure out a way to do this, where it is fair to everyone, there are some benefits. He would then come back to the Board and advise that its best to get a separate grant writer.

Trustee Hembury said he would like to see the Village go into its own grant writing contract.

Mayor Brescia feels it is best and cost effective to go into a contract with the Town. We had an IMA with the Town for CodeRed and were cut out of conducting general announcements for events such as General Montgomery Day. Let's look to see if we can work it out something that is amicable. If not, we will enter into an agreement on our own or we may choose not go into an agreement at all.

Trustee Hembury feels that there will be arguments. He doesn't want anything like that to happen again.

Atty. Frank said this is why we have been having discussions with the Attorney's. If we can't work something out, he will advise the Board the Village is better off either hiring Millennium for certain issues or potentially putting out an RFP for grant writing. Let's see how it goes and we are trying to move it along and have that conversation, and his thoughts for a time frame is before Thanksgiving,

Trustee Hembury replied, absolutely.

## EVENTS

Grand Chamber Music Concert Series presents the performance of the Shelest Piano Duo, by Anna & Dmitri Shelest, on Sunday, November 21, 2021, at 3 pm held at the Montgomery Senior Center 36 Bridge Street.

Village Hall will be closed on Thursday, November 25<sup>th</sup> in observance of Thanksgiving, and on Friday, November 26<sup>th</sup>.

Small Business Saturday, November 27<sup>th</sup>, 7 am – 7 pm, Village & Town of Montgomery Dining Businesses. (Ward's Bridge Inn, Eat This Bakery, Java Blue, Copperfield's, Iron Café, Duffy's, Rose Mary's, City Winery, Brady's Bistro, Calculated Confections, and Mainline Diner). Participating Retail Businesses to follow very soon.

Leaf Pick up continues on Tuesdays, through November 30, 2021. (Leaves must be bagged & placed curbside by 7 am).

Mayor Brescia mentioned Wild Fire Grill wants to do something in front of the restaurant as they did last year.

Ms. Picarello said on the event for Outdoor Holiday Boutique which is on December 11<sup>th</sup>. We were waiting to see what the SLA said about selling wine with gift certificates. But she would like see what is best for everyone to do. At Copperfield's, Paul is talking about hot pretzels and items that people could walk around with. In addition to selling mugs and sweatshirts like last year.

Mayor Brescia said Sgt. Brian Briere talked to him about City Winery not selling alcohol.

Ms. Picarello said samplings cannot be sold. However, regarding Wild Fire Grill they did not sell alcohol. They sold gift baskets with wine. However, the SLA is not allowing that this year. It was an extension of their ability due to COVID-19; therefore, we were allowed to sell alcohol in New York State. We are now no longer able to do this. They expressly stated that we cannot sell wine bottles in curated baskets anymore. This came directly from the Chairman of the SLA Board. She feels it's unfortunate but it out of our control.

On another note, regarding the sampling Breweries, Distilleries, and Wineries obtain a liquor license, especially with a Farm Market License which allows samplings/tasting anywhere. However, with the conditions of it being under a certain amount, such as a communion cup portion that is allowable as a sample/tasting. In the end, it's up to the Board as to whether you want to allow it at an event. Again, they technically are allowed with their license and it's not considered drinking, but a sampling/tasting.

Mayor Brescia said the Board allowed it at the Taste of Montgomery but he is not certain about allowing in on the Street.

Ms. Picarello said it would not be at the level of the Taste of Montgomery event for the sampling/tasting.

Mayor Brescia said he understands that but again, is not sure if they want to do that on the Street.

Trustee Lindner mentioned that on the Taste of Montgomery, we have a separate license specifically for that day, from the NYS Liquor Authority.

Ms. Picarello said what ever decision the Board makes, she in support of. However, its not a separate license or separate liability; its when they are selling it at outdoor markets. City Winery and Spring Brook Hollow Distilleries are the only two vendors allowed to sample.

Mayor asked the Board members how they feel on the subject.

Trustee Lindner asked Ms. Picarello if the winery wants to have a stand.

Ms. Picarello replied, City Winery and Spring Brook Hollow Distilleries want to have a stand. They both came to last year's event; she believes they both sampled. However, she does not recall without checking her records, they may have not been allowed due to COVID. However, at the Farmers Market these two vendors in particular and other alcohol vendors all sampled.

Trustee Lindner asked for clarification, if they sample, they are not able to sell?

Ms. Picarello said they are able to sell but must be closed, in bag, as you would if you went to the liquor store. They cannot open the bottle for you.

Trustee Hembury stated he has no problem with it, if it's helping the business and as long as the Village is not held liable for anything. Trustee Lindner agreed as well.

Ms. Picarello said the only issue to address is size of the tasting cups that Spring Brook Hollow and City Winery must use. She recalls the sampling cups City Winery used on General Montgomery Day were very generous. She will ask that the tasting cups be of the proper size.

Mayor Brescia said if we allow it. The Police will check and they enforce the SLA law.

Ms. Picarello also mentioned, Small Business Saturday is on November 27<sup>th</sup>, from 7 am to 7 pm. Raffle tickets for Small Business Saturday are available at Java Blue, at Walden Savings Bank on Union Street, Verizon wireless in the ShopRite Plaza, and at A Healthier You Center on Route 208 heading towards the Village of Walden, from Friday on; to be used on Small Business Saturday. Visit 20 of the 30 businesses listed on the raffle ticket and get them initialed by any employee. Afterward, drop your ticket at Eat This Bakery for a chance to win one of three gift baskets. All Village restaurants are listed on the ticket as well as Lé Pêshe.

Mayor Brescia said let's get back to Wild Fire Grill, last year with the COVID regulations, they were allowed to sell alcohol to go in an open container. But she can't sell gift baskets inside to go with an unopen container.

Ms. Picarello said, she is positive of this issue. She went through Supervisor Maher administrative assistant who was in direct contact with SLA to get the upmost expedited and honest information from them for Krista, at Wild Fire Grill. It was great way to get her to participate and was well receive last year. It does not make sense to not be able to do so again this year. However, you can order a bottle of wine at dinner, cork it and go home with it. So why can't she sell a gift card with a closed bottle of wine in a wrapped basket. However, she was told directly from the Chairman of the SLA Board that it's not allowed. It does not mean she can't participate in another capacity. She also is not sure if Wild Fire Grill wants to set up outside of the restaurant or in what capacity they plan to participate. The whole purpose of this is for the Businesses to make money and put them out.

Mayor Brescia said, Ms. Picarello you mentioned at the last meeting you're charging for business spaces. If you are advertising that, he does not want to see this happen next year.

Ms. Picarello replied, she is not charging the Village Businesses, only businesses that are coming outside of the Village.

Mayor Brescia said we do that for General Montgomery Day, but that is for a Village event. You're a separate entity doing that for businesses coming from outside of the Village where you are receiving the money. It should be the Village receiving the money, if you do that. You also talked about doing the Taste of Montgomery. If the Village gets the money and you're going to partially fund the Taste of Montgomery, this is something the Village of Montgomery can do. Whereas, the Village receives the money and in turn pays

that portion for the, "Taste of Montgomery". The Taste of Montgomery helps provide the Police coverage, as well as the set up to some degree, and the clean-up for the event. He feels the Board is in agreement with him on this. He is not in favor of a different agency that is not a Village agency to be charging vendors for event space in the Village. He will let it go for this event, however, moving forward it should be a Village event and agency. The Board is on the same page with Mayor Brescia thoughts on this issue.

Ms. Picarello stated she has charged for vendor event space for the Farmers Market, Twin Ponds is one that she has charged on the 20<sup>th</sup>. Some of the venues are charged and not others. We could work out an agreement with the Village or a specified amount to offset the cost for Police Officers or for the road closures to host an event in the Village. However, you would like to work it out an agreement, she is amenable to it. A lot of vendors have signed up for the Outdoor Holiday Boutique but if they do not have their certificate of insurance, listing the Village of Montgomery as the additional insured in time, they will not be participating, the cut off is December 1<sup>st</sup>, to have everything to the Village Clerk Rivera-Fernandez by end of business on December 2<sup>nd</sup>.

Mayor Brescia said the Farmers Market is a Town sponsored event. We can talk about it after this year.

Ms. Picarello made a suggestion for the next budget year to see if there is a different opinion after these events. She also mentioned there are a variety of cost such as marketing, flyers, tent rentals among other items involved for an event. The hope is to have the Taste of Montgomery in October. The consensus for the next Taste of Montgomery is for the month of October, which seems to be less oppressive than July and thought is for the week after Columbus Day.

Mayor Brescia said we would like to have the Taste of Montgomery back in the Village, this is where it began and where it should stay. People would rather have it here, instead of traveling outside the Village for this event. They want stay in the quaint Historic Village of Montgomery, for the Taste of Montgomery event. It was perfectly held at the Veterans Memorial Park and it was Ok in front of Museum.

Trustee Lindner said moving the Taste of Montgomery to Downtown was for the businesses to have more foot traffic than they would from the Veterans Memorial Park.

Mayor Brescia said for next year's events in the Village an agreement can be reached to coordinate, co-sponsor, for charging, as well as other details.

Ms. Picarello asked if there are any further questions regarding the Outdoor Holiday Boutique. She will be not be available, due to the preparations at the bakery for the Thanksgiving, and Small Business Saturday. Once she has the proper certificate of insurance from the vendors, for the Outdoor Holiday Boutique she can begin organizing the final layout for the vendors. Everyone with a store front has their own space unless they aren't participating. She asks the Board if that's ok.

Mayor Brescia said he is ok with it, the way it was set up last year. His concern is the Police Officers going over their allowable hours. However, it's been covered. He hopes for the day to be positive good weather day.

Mayor Brescia and the Board thanked Ms. Picarello.

**AUTHORIZE THE CLOSING OF CLINTON STREET ON DECEMBER 11<sup>TH</sup> FROM WALLKILL AVENUE TO BRIDGE STREET, BEGINNING AT 11 AM TO 4 PM**

Moved by Deputy Mayor Scheels, seconded by Trustee Lindner, the Board authorized the closing of Clinton Street, on December 11<sup>th</sup>, from Wallkill Avenue to Bridge Street, beginning at 11 am to 4 pm. Motion carried, 4-Ayes, 0-Nays.

## PUBLIC PORTION

Mr. Berger said he felt his FOIL was not answered fully regarding the law suit and the Village expense.

Mayor Brescia asked the Village Clerk if the FOIL was answered.

Village Clerk Rivera-Fernandez replied, the foil request was answered with the information that we have regarding the Village expenses for the law suit, which was for the deductible, payable to Selective Insurance.

Mr. Berger said he does not understand what the Village paid.

John Vero Selective Insurance Agent, explained the Village paid the deductible of \$20,000.00 to Selective Insurance and Selective Insurance paid the remaining \$17,500.00. The cost of the claim was \$37,500.00, plus the cost of the Attorney's which Selective Insurance paid.

Atty. Will Frank said respectfully this is public comment, not public debate. The FOIL was answered.

Mr. Berger feels it was not answered correctly.

Atty. Will Frank replied, that is as much of an answer that you are going to get. The Village furnished you with what was paid, which was for the deductible at \$20,000.00 and nothing else. That really does answer your question. The Village does not have the breakdown of exactly what the insurance company pays. The Village gets an invoice for the deductible, it was paid and that is it.

Mayor Brescia asked, if there is anything else from the Public?

Walt Pahucki of Montgomery Book Exchange wanted to mention everything involving Small Business Saturday and the Outdoor Holiday Boutique to be joined with the Old-Fashioned Holiday event. It really does help the small businesses, the food businesses do very well and make a lot of money. He is not sure if the Board realized there are only a few retail businesses left in the Village. Its up to the landlords when a retail store goes out who they are going to rent to. He's spoken with the property owners and a lot of people came to them suggesting wanting dentist offices, dance studios, and not retail. The restaurants we have are great and have good food and the bars are great too. Now, with Oliver Anne closing, that only leaves a couple of retail stores left. It's not as if that is something that zoning or planning can think about, of course it's up to the landlords. We have to try, to think about balancing out the type of businesses. We have a number of hair salons, restaurants, and bars and hopes they make a lot of money and are successful. Only three retail businesses left in the Village. He appreciates everything, and the events the Village has brought to the Village.

Trustee Hembury mentioned, the Village Board welcomes the new residents to the Village. It is announced to the Village businesses before hand to get the Village Businesses to participate and very few make a contribution. The few that do participate, receive repeat customers. As I mentioned before, this is an effort to promote the Village Businesses for the new residents to know what is available here. Regardless of who contributes, the Board is still going to welcome the new residents to the Village. He feels someone may be advising the businesses not to participate for some reason, which is what he has heard from some of the businesses.

Mr. Pahucki said there has been a lot going on in our lives and we have gotten away from it. There is no other reason but just that life gets crazy.

Trustee Hembury again stated he's heard from different business sources that were told not to participate. Please be aware the Village officials do not receive anything for doing this. We are helping the businesses.

He is perplexed as to why more of the Village Businesses aren't participating in something that costs them nothing but a few moments of their time to drop items off at the Clerk's Office. As he said previously, you're more likely to get repeat customers for years.

Mr. Pahucki said some of the businesses are trying to work more with the business counsel because the Town Chamber of Commerce was working with antiquated concepts. We are trying form a subcommittee of the Business Counsel, so that we can focus on the Village.

Trustee Hembury said the packets for the new residents should be full with different items from the Village Businesses. It's another avenue to advertise and promote their businesses, however, it a shame that most choose not to participate. Regardless, the Village Board is not discouraged and will continue welcoming the new residents and it will continue to be run by the Village.

Ms. Picarello said .... (inaudible) speaking too low from the back of the room.

Mayor Brescia said, to answer Mr. Pahucki's question, we would like to have more retail stores in the Village but it's not something that we do. We certainly have more events than most municipalities in the County of Orange. He and Trustee Hembury recently met regarding the Great Race that we are bringing here on June 19<sup>th</sup>. We are very excited about it. It should bring a lot of excitement in the community, which is one of many events. The Car Show, General Montgomery Day, Toys for Tots, St. Pat's Ramble, and the list goes on. Therefore, we bring a lot of people to promote business in the Village. If you could bring us more retail into the Village, we welcome it.

Mr. Pahucki asked, how do you propose we do this, by bringing it up in any conversation? We do know it's ultimately up to the landlord. He's heard people say that restaurants bring in more than retail.

Trustee Hembury said when we send out the letters again, we hope to have more participation. We are not going to the businesses to pick up items. Believe me, it's been mentioned in the past that expect it.

Mayor Brescia inquired about the status on the Aiello Annexation and the Butler property. As you suggested, let's make sure it's a non-nuisance business before we change the zone. They are going to apply to the Planning Board, of which we are changing some of the uses. The intent was to move the business over wholesale and operate as they have previously, where they were in the I-1 zone, with a more aesthetically pleasing building and more regulations. If they apply to the Planning Board and meet the criteria the engineer decides, then so be it. If not, then they come back and look at amending the zone.

Atty. Will Frank replied, not to amend the zone but to add special exception uses if its necessary. He did speak with the applicants Attorney today and some others, specifically the engineer. Their engineer has to speak with the Village engineer; the intent is to have the use classified as non-nuisance industrial, which would fit in the I-1 zone; provided there is a fence and aesthetic issues that is in the definition of non-nuisance industry in the Village code now. If they fit into, they might be the most appropriate way to go. So, this is what we will discuss.

Trustee Lindner asked, don't we have to annex the property into the Village from the Town with this law.

Atty. Will Frank replied, yes, the Annexation is part of the Local Law, that doesn't necessarily have to happen tonight, it can happen at the next meeting and still can proceed; assuming the Planning Board is satisfied with more investigation.

Mayor Brescia stated he felt the Village had done that, before it went to the Town.

Atty. Will Frank explained, the Village approved the annexation but there is also a Local Law to be adopted and filed with the State to change the boundary map and move it to the Village from the Town. We need to set a Public Hearing for the Local Law; however, it can wait for the next meeting. They are not on the agenda.

Mayor Brescia said with them not being on the agenda, it may not be resolved by the next meeting.

Atty. Will Frank replied, there is a good chance we will be on the road and speak to the engineer.

Mayor Brescia said good and thank you.

#### EXECUTIVE SESSION

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board entered into Executive Session at 8:07 pm, pursuant to the open meetings law under §7 (f) for matters leading to the possible appointment of an Attorney with PB Chrm Conero, the candidate and the Village Clerk in attendance. Motion carried, 4-Ayes, 0-Nays.

#### EXIT EXECUTIVE SESSION

Moved by Trustee Lindner, seconded by Deputy Mayor Scheels, the Board Exited Executive Session at 8:31 pm. Motion carried, 4-Ayes, 0-Nays.

#### HIRE ATTORNEY FOR THE PLANNING BOARD

Moved by Trustee Hembury, seconded by Trustee Lindner, the Board hired Joseph G. McKay, Esq. with Catania, Mahon & Rider, PLLC to cover the Village of Montgomery Planning Board. Motion carried, 4-Ayess, 0-Nays.

#### ADJOURNMENT

Moved by Deputy Mayor Scheels, seconded by Trustee Lindner, the Board adjourned the meeting of November 16, 2021. Motion carried, 4-Ayes, 0-Nays.

---

Monserrate Rivera-Fernandez, Village Clerk