

VILLAGE BOARD MEETING
Minutes
March 6, 2013

CALL TO ORDER: 7:00 p.m.

The Pledge of Allegiance was led by Mayor Lobene.

BOARD MEMBERS PRESENT

Joyce Lobene, Mayor
Theodore E. Rauber, Trustee
Carol J. Nellis-Ewell, Trustee
Gary Penders, Trustee
Fritz Gunther, Trustee

BOARD MEMBERS ABSENT

OTHERS PRESENT

Glenn Granger, Village Walk Circle
Charles Hopson, Maplewood Avenue
Ray Kuntz, Coolidge Avenue
Owen McIntee, Electric Superintendent
Joan Quigley, Maplewood Avenue
Kris Schultz, Schultz Associates
Jacqueline Sullivan, Village Clerk
Mike Vickery, DPW Foreman
Dan Wilson, S. Union Street
Participation in Government Students (9)

APPROVAL OF MINUTES

A motion was made by Trustee Rauber, seconded by Trustee Penders and carried that the minutes of the regular meeting February 6, 2013 be approved as read.

A motion was made by Trustee Nellis-Ewell, seconded by Trustee Penders and carried that the minutes of the workshop meeting February 20, 2013 be approved as read. Trustee Gunther and Rauber abstained.

A motion was made by Trustee Rauber, seconded by Trustee Nellis-Ewell and carried that the Public Hearing regarding Local Law 1/2013 "The Incentive Zoning Law of the Village of Spencerport" be closed at 7:02 p.m.

PRIVILEGE OF FLOOR

Mr. Dan Wilson, 402 S. Union Street indicated that there is need for more signs and traffic enforcement for the speed limit on Union Street. Mr. Wilson suggested that speeding cameras might be a good idea.

Mayor Lobene responded that she has spoken to the Chief of Police regarding the speeding and she will address it with him again.

Administrative Committee – Mayor Lobene, Chair

Mayor Lobene explained that she distributed information regarding the 2013 NYCOM Village Officials Workshop and that in the past it has been a very good meeting and encouraged the Board Members to attend.

Trustee Nellis-Ewell indicated that the meeting mostly consists of topics that have already been reviewed at previous NYCOM sponsored meetings.

Mayor Lobene responded that some of the topics are repetitive however it is important that the Board members attend the meeting.

Resolution 62 3/2013

Introduced by: Trustee Gunther
Seconded by: Trustee Penders

Be it resolved that the Village of Spencerport Board of Trustees hereby approves attendance by any Village Board Member to the NYCOM 2013 Village Officials Workshop – Friday, April 19, 2013 from 8:30 a.m. – 3:30 p.m. at Woodcliff Hotel and Spa, 199 Woodcliff Drive, Fairport, NY. Cost not to exceed \$95.00 per person

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|--------------------|--------------------------------|-----|
| Vote of the Board: | Theodore E. Rauber, Trustee | Aye |
| | Carol J. Nellis-Ewell, Trustee | Nay |
| | Gary Penders, Trustee | Aye |
| | Fritz Gunther, Trustee | Aye |
| | Joyce Lobene, Mayor | Aye |

Mayor Lobene added that the OCS audit is continuing and going well, met with the Village Historian and getting everything in order, attend the NCYOM Legislative meeting in Albany and received a letter from the Governor thanking the participants for attending.

Sewers Committee – Trustee Rauber, Chair

Trustee Rauber commented that he has talked with Superintendent West and at this time of year the ground water due to melting snow and run off is high and that the flow rate data that was received from Monroe County a few months ago indicated that flows from the Village are exceeding the agreed upon limits. At this time flow meters are being submerged into the sewers to collect flow reads to determine the areas of infiltration for the next 60 to 90 days. This will determine future pipe sizes for future developments.

Trolley Depot – Trustee Rauber, President

Trustee Rauber commented that the first meeting of the season is March 11th and an overview of the upcoming year's events will be reviewed; board elections will be in April and the 2013 season will be underway. Trustee Rauber indicated that he will be meeting with Clerk Sullivan to discuss added duties for Depot Volunteers.

Mayor Lobene indicated that she met with Doreen Castano to do the essay contest with the local 4th graders and the Chamber of Commerce agreed to donate \$200 for prizes.

Planning/Zoning/Building Control – Trustee Nellis-Ewell, Chair

- A. Planning – Trustee Nellis-Ewell reported that the Planning Board met on (2/5) to conduct two public hearings for Mr. and Mr. Cates, Waterside Lane for combining two lots and the relocation of the proposed house onto the newly formed single lot and a change of use request from Matt Brooks for his Union Street Property. Both applicants received conditional final approval of their applications.

Resolution 63 3/2013

Introduced by: Trustee Nellis-Ewell

Seconded by: Trustee Penders

Be it resolved that the Village of Spencerport Board of Trustees hereby approves attendance to the NY Planning Federation Conference April 21st – 23rd, 2013 for up to two (2) planning board members. Cost not to exceed \$460.00 per person.

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| Vote of the Board: | Theodore E. Rauber, Trustee | Aye |
| | Carol J. Nellis-Ewell, Trustee | Aye |
| | Gary Penders, Trustee | Aye |
| | Fritz Gunther, Trustee | Aye |
| | Joyce Lobene, Mayor | Aye |

- B. Architectural Review - Trustee Nellis-Ewell reported that representatives from Family Nails, 500 S. Union Street; Fabulous Photo, 12 Amity Street and MGB/McColley's Pub attended the meeting on 3/6 and all applications were granted certificates of appropriateness by the ARB.
- C. Zoning – Trustee Nellis-Ewell reported that a ZBA meeting was not necessary on February 21, 2013.

D. Building Control

E. Code Review - Trustee Nellis-Ewell indicated that there are a few outstanding issues including parking on front lawns and meeting will reconvene when Kevin Kelly, Code Enforcement Officer, returns from Florida.

Finance Committee – Trustee Penders, Chair

Resolution 64 3/2013

Introduced by: Trustee Penders

Seconded by: Trustee Rauber

Be it resolved that the Village of Spencerport Board of Trustees hereby approves the below Budget Transfers and Revisions for fiscal year ending May 31, 2013.

| <u>Amount</u> | <u>To Account</u> | <u>From Account</u> |
|----------------------|--|---------------------------------------|
| \$200 | A7510.400 Historian Contractual | A1325.400 Clerk/Treasurer Contractual |
| \$20,000 | A5142.100 Snow Removal – Salary | A5110.100 Highways – Salary |
| \$3,000 | A5650.100 Off-Street Parking – Salary <i>Due to Bridge Closings & Signage</i> | A5110.100 Highways – Salary |
| \$445 | A8160.200 Refuse – Equipment <i>Rolling Refuse Carts</i> | AA8160.402 Residential Tipping Fees |
| \$2,425 | A8170.400 Street Cleaning | A8540.400 Drainage – Contractual |

Vote of the Board:

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| Theodore E. Rauber, Trustee | Aye |
| Carol J. Nellis-Ewell, Trustee | Aye |
| Gary Penders, Trustee | Aye |
| Fritz Gunther, Trustee | Aye |
| Joyce Lobene, Mayor | Aye |

Facilities Committee – Trustee Penders, Chair

A. Electric

Trustee Penders indicated the electric crews have finished the Nicole Drive project and are working on a fiber cabling project.

B. Other (Drainage, Franchise)

Public Works Committee – Mayor Lobene, Chair

Mayor Lobene indicated that we continue to wait to hear from CP Ward regarding the removal of the CSX railroad bridge.

A. Highways/Garage

B. Public Services (Refuse, Recycling, Parks)

Mayor Lobene commented that bulk pick-up is going on this month.

Mr. Vickery added that crews have gone through the Village once and will be going through again to ensure that they have picked everything up.

Resolution 65 3/2013

Introduced by: Trustee Rauber

Seconded by: Trustee Gunther

Be it resolved that the Village of Spencerport Board of Trustees awards the Street Tree Trimming/Removal 2 Year Contract to Westside Tree & Landscaping, Inc, 12673 Albion, NY 14411 per the attached rate schedule and submission of appropriate liability, automobile and workers compensation insurance.

Vote of the Board: Theodore E. Rauber, Trustee
Carol J. Nellis-Ewell, Trustee
Gary Penders, Trustee
Fritz Gunther, Trustee

Trustee Nellis-Ewell questioned if there were other bidders on the project.

Clerk Sullivan indicated that there was not.

Trustee Nellis-Ewell asked how the rates compared to the last contract.

Clerk Sullivan responded that she did not have that information and to ask Superintendent West.

Trustee Penders questioned if Westside Tree is providing property signage and what kind of insurance does Westside Tree have.

Mr. Vickery responded that he did not know what kind of insurance Westside had.

Clerk Sullivan indicated that all of the Westside's insurance documentation has not been received and that is reason for the contingent resolution.

Trustee Penders continued that he has witnessed Westside Tree doing work for the Village not using proper signage, hard hats or safety harnesses in the bucket trucks.

Mr. Vickery indicated that Westside Tree tries to have signage while he is on a state or county highway.

Trustee Rauber indicated that Trustee Penders brings up a good point and that is why the resolution is contingent upon providing property insurance documentation.

Mayor Lobene indicated that those questions make sense but she knows that Jackie takes care of these contracts.

Clerk Sullivan indicated that this is not her contract and that her only role is to confirm that the contractor has the proper insurance documents and the Village does not have these documents at this time and that this is Superintendent West's contract.

Trustee Rauber added that he is concerned that this is the only bidder and that he thought there should be more bidders.

Mayor Lobene suggested that the decision on this item be postponed.

Trustee Rauber indicated that he did not think so and that enough information has been provided to vote on this resolution.

Trustee Nellis-Ewell questioned if SME uses Westside Tree.

Superintendent McIntee responded that he does not use Westside Tree because of some previous reasons and has used Terry Tree in the past and currently Terry Tree is on Monroe County Contract and has used this this year at County bid price.

Trustee Gunther asked how soon tree trimming is needed.

Mr. Vickery responded that it needs to be done but it is not at a critical stage.

Trustee Gunther indicated that he would like more options and more bidders to choose from and suggested a rebid.

Trustee Rauber responded that he does not disagree with that but we historically take the lowest bidder and does not know why the Village would not in this case.

Trustee Penders commented that we would not award to the low bidder because they do not use property safety equipment including signs, hard hats, and safety harnesses in the buckets.

Trustee Rauber added that he has no issue with tabling the resolution and going out for rebid but the tree trimming needs to get done.

Mayor Lobene indicated that his needs to be discussed with Superintendent West.

A motion was made by Trustee Gunther, Seconded by Trustee Nellis-Ewell and carried to table resolution 65 3/2013 to award the 2 year Tree Trimming contract until the March 20, 2013 workshop meeting. Trustee Rauber voted nay to this motion.

Public Safety Committee – Trustee Penders, Chair

- A. Fire Department - Trustee Penders indicated that the Fire Department meeting will be tomorrow night and that he emailed all of the meeting minutes to the Board members. The cost to repair the rescue truck was about \$7,000 less than expected.
- B. Police
- C. Ambulance – Trustee Penders indicated that there is a vacancy on the board and they are looking for a volunteer board member

Human Resources Committee – Mayor Lobene, Chair

Economic Development Committee – Mayor Lobene, Chair

Green Initiatives – Trustee Nellis-Ewell, Chair

Trustee Nellis-Ewell commented that the Genesee Finger Lakes Planning Council's Sustainability Consortium will be continuing through March.

Village Clerk – Jacqueline Sullivan

Resolution 66 3/2013

Introduced by: Trustee Rauber
Seconded by: Trustee Penders

WHEREAS, the Village of Spencerport from time to time receives permits for the New York State Department of Transportation and otherwise conducts activities and operations upon highways and/or within right-of way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, the Village of Spencerport's access and operation up state right-of-way is conditioned upon compliance with Highway Law Section 52, 103, 203, and/or 234, including the conditions that the Village of Spencerport assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by the Village of Spencerport's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, the Village of Spencerport agrees to the following terms and conditions:

1. **Permit Application.** Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Village of Spencerport shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstance, a minimum of five business days' notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Village of Spencerport shall apply for project-specific permits for activities not allowed under any exiting annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration.
2. **Applicable Rules, Regulations & Conditions.** The Village of Spencerport shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

3. **Site Restoration.** The Village of Spencerport shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damage by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Village of Spencerport fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after give written notice to the Village of Spencerport, may restore the property to substantially the same to equivalent condition as existed before the Village of Spencerport's work/activities, in which case, the Village of Spencerport agrees to reimburse the reasonable expenses in connection therewith.
4. **Payment & Release of Liens.** The Village of Spencerport shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYS DOT against any and all lien claims made by persons supplying services or materials to the Village of Spencerport in connection with the Village of Spencerport's work.
5. **Indemnity.** In addition to the protection afforded to NYSOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Village of Spencerport, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with the Village of Spencerport's activities or operations, whether undertaken by the Village of Spencerport's own forces or by contractors or other agents working on the Village of Spencerport's behalf. The to the fullest extent permitted by law, the Village of Spencerport agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Village of Spencerport's activities or operations under any and all permits issued using the Undertaking.

FURTHERMORE, the Village of Spencerport warrants that the obligations of the Undertaking are backed by the full faith and credit of the Village of Spencerport. The Village of Spencerport may insure or bond any of the obligations undertaken after the date of execution and work initiated while this Undertaking is in effect. The Undertaking may be revoked by the Village of Spencerport or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

IN WITNESS WHEREOF, the Village of Spencerport Board of Trustees agrees to the terms of the Undertaking, and has caused its execution by Joyce Lobene, Mayor of the Village of Spencerport.

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| Vote of the Board: | Theodore E. Rauber, Trustee | Aye |
| | Carol J. Nellis-Ewell, Trustee | Aye |
| | Gary Penders, Trustee | Aye |
| | Fritz Gunther, Trustee | Aye |
| | Joyce Lobene, Mayor | Aye |

Clerk Sullivan commented that she had met with PERMA the workers compensation insurance provider and renewal rates will be received at the end of April for the July 1st renewal; election day is March 19th and polls will be open from Noon till 9:00 p.m. at the Fire House; a letter was submitted to the Mayor regarding fees for a sidewalk café and the permitting process and fees will be discussed at the 3/20 workshop meeting; will be attending a health care reform meeting with Trustee Penders and Donna Stassen sponsored by our broker of record Bond Financial; the Village has been named a beneficiary in Helen Moore's will.

Superintendent of Public Works – Thomas M. West - Absent

Forman Vickery reported that to date there have been 38 call outs for snow removal; Reddy construction has tapped the sewer main for the LoPresti project on Brockport Road and on Monday Reddy construction will be cutting Brockport Road to establish water service for the project; the new 6 wheel dump truck should be received in a couple weeks; the shop has been cleaned and painted; three call outs for sewers and were determined to be resident issues; slip lining of the sewers has been completed; street sign inventory has been completed; new work zone signs have been received; OSHA, confined space and CPR training is complete; Superintendent West has completed PERMA Safety Coordinator Training and Foreman Vickery will be taking the training as well; street sweeper is ready for spring; trash cans are being painted and pot holes are being filled.

Foreman Vickery questioned if the no parking time limits could be changed to be a 12 hour period instead of an 8 hour period.

Trustee Rauber commented that the code review committee would need to address the no parking time periods.

Trustee Nellis-Ewell asked if the flags at the Gazebo could be changed.

Superintendent of Electric – Owen McIntee

Superintendent McIntee commented that the substation equipment is due in at the end of the month; Nicole Drive project is complete and is up to modern day standards; the pole on Hillcrest Drive was installed to provide more clearance over the driveways in that area; working with Frontier to replace poles for Time Warner; work with Mike LoPresti regarding Brockport Road is taking place at this time; work continues on Big Ridge Road and fiber request has been received for Union Street and Big Ridge Road.

At the request of the Mayor Superintendent McIntee explained the Dig Safely program.

Attorney – Richard J. Olson - Absent

Unfinished Business

New Business

Bills

Motion was made by Trustee Nellis-Ewell, seconded by Trustee Penders and carried unanimously that the monthly bills be paid as audited in the following amounts:

| | |
|---------------|---------------------|
| General Fund | \$ 41,230.37 |
| Electric Fund | \$ 50,983.41 |
| Sewer Fund | \$ 10,008.37 |
| Trust Fund | \$ 120.07 |
| Capital Fund | <u>\$ 1495.00</u> |
| TOTAL: | \$103,837.22 |

Motion was made by Trustee Nellis-Ewell, seconded by Trustee Rauber and carried unanimously that the cash disbursements for the General, Electric, Sewer, Trust and Capital Funds, March 2013 be approved as audited.

Adjournment

Motion was made by Trustee Nellis-Ewell seconded by Trustee Gunther and carried unanimously that the regular meeting be adjourned 8:05 p.m. to executive session to discuss personnel.

Motion was made by Trustee Rauber, seconded by Trustee Gunther and carried unanimously that the executive session be adjourned at 8:30 p.m.