

**VILLAGE OF UPPER BROOKVILLE
BOARD OF TRUSTEES' MEETING
MAY 21, 2018**

A regular meeting of the Board of Trustees of the Incorporated Village of Upper Brookville, Nassau County, New York, was held at the Annex on the grounds of the Planting Fields Arboretum, located on Planting Fields Road in the Village, on Monday May 21, 2018 at 6:30 P.M.

Present:	Elliot S. Conway	Mayor
	Edward J. Madden	Trustee
	Carl A. Friedrich	Trustee
	Frank J. Russo	Trustee
	Antje B. Dolido	Trustee

Not Present: Tracy L. Lynch, Clerk/Treasurer

Also Present: Thomas Mullen, Assistant to Board
Sam Vergata, Road Commissioner
Ms. Marie Nigro, Village Resident
Peter P. MacKinnon, Esq. of Humes & Wagner, LLP
Attorneys for the Village

The Mayor called the meeting to order at 6:30 P.M. He requested that the affidavits of mailing and posting of the Public Information Notice in compliance with the Open Meetings Law be presented and annexed to the minutes of this meeting.

MINUTES

The Mayor called for approval of the minutes of the Trustee meetings held on March 19, 2018 and April 16, 2018. Changes were noted and on motion duly made and seconded, were unanimously approved.

PUBLIC COMMENT

A resident on Hillcrest Lane reported her concerns about the Mill River Club fireworks display scheduled this year for Sunday, July 1st with a rain date of Monday, July 2nd. She has lived in the Village since 1985 and last year, she observed the display varied from previous years as it was extremely loud and intense. She requested the Village to ask the Club to investigate whether there had been any change in the display and suggested aiming the display towards a less populated area, like the Planting Fields Arboretum.

The Mayor reported he is scheduled to meet with the Manager of the Club about another Village matter and would discuss her concerns with him.

FINANCIAL REPORT

Bills

After presentation by the Mayor, and on motion duly made and seconded, the Board unanimously

RESOLVED, to approve payment of the bills listed on Warrant No. 12 in the total sum of \$188,829.25 dated May 21, 2018 that are annexed to these minutes.
(See Attached Exhibit A)

The Mayor also requested the Board approve final payment to John McGowan & Son for \$80,753.31 for the 2017 Road Project contract. On motion duly made and seconded, the Board unanimously

RESOLVED, to approve payment of \$80,753.31 to John McGowan & Sons from the Capital Account for the 2017 road project contract.

Treasurer's Report

After presentation by the Mayor and examination, on motion duly made and seconded, the Board unanimously

RESOLVED, to approve and file the Treasurer's Report for the month ending April 2018. **(See Attached Exhibit B)**

VILLAGE CLERK'S REPORT

Annual Audit

The Mayor reported that the Clerk received a proposal from Cullen & Danowski, LLP to conduct an annual audit of the Village's financial statements. This will include each fund and account group and the related notes to the financial statements which collectively comprise the basic financial statement of the Village as of and for the year ended May 31, 2018. They will also audit the Village's Justice Court funds. After discussion, the Board agreed that based upon the past experience with Cullen & Danowski that they be retained as Village Auditors at the annual retainer of \$10,000. On motion duly made and seconded, it was unanimously

RESOLVED, that the accounting firm of Cullen & Danowski, LLP be, and they hereby are, appointed as Village Auditors for the annual fee of \$10,000.

TOBAY Triathlon

The Mayor also mentioned that the Village has received a request for the holding of the Town of Oyster Bay Triathlon, to be held on August 26, 2018. After discussion, the Board agreed that a permit may be issued for this event, subject to the usual requirements of having the activity coordinated with the Police Department.

RESOLVED, that the application of the TOBAY Triathlon to route a portion of the run through the Village on Sunday, August 26, 2018, be, and it hereby is, approved, subject to the following conditions:

1. All race activities shall occur between the hours of 9:00am and 11:00am;
2. There shall be no parking along any street within the Village;
3. The race sponsor/applicant shall be responsible for providing appropriate supervision and adequate protection for all participants, workers, volunteers, motorist and spectators;
4. The race/sponsor shall provide to the Village a Certificate of Liability Insurance for the event naming the Village as an additional insured in

the minimum amount of \$5,000,000 which certificate shall be delivered to the Village Clerk at least two (2) days in advance of the use of the premises for event activity.

5. The race sponsor/applicant shall complete the Village's Indemnification and Hold Harmless Agreement releasing the Village from any and all claims and liabilities, which arise in connection with the event by any participants, workers, volunteers, motorist and spectators;
6. All roads in the Village used in connection with this event are to be used by each participants, workers, volunteers, motorist and spectators at his or her own risk. The race sponsor/applicant shall be responsible for obtaining releases from all participants stating that all Village roads are to be used at the risk of each participant;
7. All activities occurring within the Village are to be coordinated with the Old Brookville Police Department (OBPD). If the OBPD requires additional personnel to provide adequate protection, the sponsor shall pay for all cost and charges, including, but not limited to, overtime payment for all police officers used;
8. The applicant shall deposit \$300 with the Village as security to ensure that after the conclusion of the event, the race sponsor/applicant shall promptly remove from the Village all of it signs and street markings and collect and remove all debris generated by race participants, workers, volunteers, motorist and spectators;
9. Any breach of the foregoing conditions, or any violation thereof of the local laws of the Village, shall be in and of itself grounds for the Village to immediately revoke Village approval and

FURTHER RESOLVED, that the certificate of insurance and evidence that liability coverage remains in force and effect from preparation until the race is concluded and all equipment is removed from the Village, and

FURTHER RESOLVED, that failure to comply with any of the above requirements shall result in immediate revocation of this permit.

Clerk/Treasurer Signing Limit

The Mayor noted that the Clerk requested the Board approve increasing her signing limit for dual signatures which is currently set at \$7,000. She has made this request so she has the ability to sign a check on the first of each month for the NCS equipment lease which was increased in the 2018/19 budget. After discussion, and on motion duly made and seconded, the Board unanimously

RESOLVED to increase the Clerk/Treasurer signing limit for dual signatures to \$7,500.

Standard Work Day

The Mayor explained to the Board that the New York State and Local Retirement System uses days worked to determine service credit, which is the basis for benefit

eligibility and, in most cases, used in the calculation of benefits. As Margaret Grady (Court Clerk) & Thomas Mullen (Assistant to Board of Trustees) are now participating in the Retirement System, effective May 1, 2018, he recommended that the Board approve a Standard Work Day of 6 hours. After discussion, and on motion duly made and seconded, it was unanimously

RESOLVED, that the Clerk be, and she hereby is, directed to report a Standard Work Day for the position of Assistant to Board of Trustees and Court Clerk of 6 hours minimum when reporting service credit to the NYS and Local Retirement System.

ROAD COMMISSIONER/CODE INSPECTOR REPORT

The Road Commissioner reported that his crew carried out spring cleanup and other general maintenance throughout the Village. They installed a new Village welcome sign and split rail fence at the corner of Glen Cove/Oyster Bay Rd. The Beautification Committee was working on a planting plan for the area consistent with previously approved expenditure limits and would present it to the Mayor for approval.

Commissioner Vergata asked who would be maintaining the planting areas around the new signs, especially the early watering as the shrubs and plants adapt to the new location and the Mayor reported the Village would take on this responsibility.

BUILDING DEPARTMENT REPORT

The Clerk/Treasurer referred to the reports submitted by the Building Department Clerk for April 2018 activity.

MAYOR'S REPORT

Tree City

The Mayor recommended the Village become a "Tree City USA" community. If the Village becomes a Tree City, we would become more competitive and therefore have a better chance to be awarded tree-related New York State grants. Grants may include awards for both (a) conducting a tree resource inventory of the number and condition of our existing trees, and (b) matching funds to plant new trees along the Village rights of way.

The Board discussed the tree work done along the village Wheatley Road in the Village of Old Westbury in the context of potential new plantings along Wolver Hollow Road, Wheatley Road (in partnership with Brookville) and Chicken Valley Road (in partnership with Matinecock).

The Board discussed a pilot project on Wolver Hollow Road where we would plant a combination of different species along the right of way in fall 2018. Wolver Hollow is a good initial candidate as Upper Brookville maintains both sides of the road. The Mayor and the Road Commissioner agreed to investigate the project with the Beautification Committee and recommend the number and types of trees in a report back to the Board.

He also reported that to qualify as a Tree City USA community, the Village must meet the following four standards:

1. Form a Tree Board.
2. Establish a Tree Care Ordinance.
3. Create a Community Forestry Program with an annual budget of at least \$2 per capita.
4. Proclaim a Village Arbor Day.

First, the Village Attorney recommended that the Board of Trustees be appointed as the Tree Board. This Board would be legally responsible for the care of all trees on Village property. The Mayor noted that the Village's existing tree ordinance already provides clear guidance for planting, maintaining and removing trees in the Village as well as activities that are required or prohibited.

Second, the Mayor requested the Board create a Community Forestry Program with an annual spending of \$2 per capita (\$3,500 per year) toward the planting, care and removal of Village trees. He noted the Village already spends more than this minimum amount in our annual budget.

Last, the Mayor requested the Board to ratify his action declaring Arbor Day in Upper Brookville on April 25, 2018.

After discussion, and on motion duly made and seconded, the Board unanimously

RESOLVED, to have the Village become a Tree City USA community and appoint the Board of Trustees as the Tree Board, create a Community Forestry Program with a \$2 per capita annual spending budget on planting, care and removal of Village trees and to declare Arbor Day in the Village on April 25, 2018.

Charitable Gifts Reserve Fund & Property Tax Credit Program

The Mayor discussed the new law adopted as part of the 2018-19 State Budget that allows local governments to (1) establish a charitable gifts reserve fund and, if having done so, (2) provide property tax credits associated with contributions to such fund. This law was enacted in response to federal tax reform and the \$10,000 cap on state and local tax (SALT) deductions. The Village Attorney explained that the optional program is available to villages. To participate, the Village must establish a Charitable Gifts Reserve Fund by resolution and then adopt a Local Law to provide property tax credits associated with contributions to such fund. The Village will be adopting specific guidelines for those residents who have a lender paying their Village taxes.

After discussion, and on motion duly made and seconded, the Board unanimously

RESOLVED, that the Village of Upper Brookville hereby establishes a **Charitable Gifts Reserve Fund**, as authorized pursuant to Section 6-u of the General Municipal Law. The purpose of the Reserve Fund is to receive unrestricted charitable money contributions. These moneys will be invested by the Village, pursuant to the Village's Investment Policy. Any interest earned will accrue to and become part of the Charitable Gifts Reserve Fund.

INTRODUCTION OF PROPOSED LOCAL LAW C-2018, “CHARITABLE GIFTS RESERVE FUND”

Next, the Village Attorney circulated a draft of Proposed Local Law B-2018 entitled, “*Charitable Gifts Reserve Fund*,” which will allow any owner of real property located within the Village of Upper Brookville to make an unrestricted charitable monetary contribution to the Village’s Charitable Gifts Reserve Fund and potentially claim a credit against the Village real property tax equal to ninety-five percent (95%) of the Charitable Gifts Reserve Fund donation pursuant to Real Property Tax Law §980-a.

Accordingly, on motion duly made and seconded, the Board unanimously

RESOLVED, that the Attorneys for the Village be, and they hereby are, authorized to take all necessary actions to schedule a public hearing on Proposed Local Law B-2018, “*Charitable Gifts Reserve Fund*,” at the June 18, 2018 meeting of the Board of Trustees.

Special Districts

The Mayor reported that, following the authorization of the Board in fall of 2016, he has been working in consultation with the Village Engineer and Attorney on creating a special district for residents on private roads where the pavement is in distress and a supermajority of residents desire to rehabilitate or reconstruct the road. He proposed an alternative to the special district: enhance the property maintenance law to include provisions that would require residents on private roads or the Village to maintain substandard roads, as defined under the NYSDOT Road Rating Manual, and proposed the following amendments:

1. Residents can request the Village to conduct a Private Road Assessment if two-thirds of the homeowners on the road petition the Board. Upon receipt of the petition and pre-determined fee, the Village would instruct their Engineer to perform a Private Road Assessment to determine the Road Assessment Rating and provide the recommendation to the residents for either repair, maintenance or reconstruction of the road.
2. If the road is found to be substandard by the Engineer, residents of the road would be notified of the action to be taken, the timeframe allotted for compliance and each resident’s contribution.
3. If no action is taken by the private road residents, the Village can address any substandard conditions noted in the Village Engineer’s report and authorize corrective action. All costs and expenses shall be assessed to the private road users equally. Failure of a private road user to reimburse the Village for said expenses shall result in those costs and expenses being assessed against the Private Road User’s property as a lien to be included on their tax bill.

The Village Attorney recommended that the new Property Maintenance law include a list of private roads covered so the residents are aware that (a) their road is potentially subject to the new law, (b) the law specify that resident share equally in the

cost of the maintenance of the road based on the number of properties with legal access over the road, and (c) that any petition requires a fairly high threshold.

The Board discussed the appropriate threshold with the consensus that the NYS guideline for setting up a special district required minimum of 50% of the residents was too low in this case. Given that both houses of Congress can override a Presidential veto and pass an act by a two-thirds vote (vs a simple majority) the Board agreed that this percentage would indicate that significant support exists to accept the recommendation of the petitioners.

Trustee Russo recommended the Board reconsider the decision that was made in the Village about 70 years ago to cease taking over private roads. Now, over half the Village residents reside on private roads.

The Mayor stated that the intent of the proposed amendments to the Property Maintenance law were to address only the private roads in the Village in very poor condition where a supermajority of residents petition to correct the problem. He pointed out that potholes can be dangerous, especially when a motorist notices it at the last second and swerves to avoid it, possibly causing an accident.

Following a recommendation from the Village Attorney, the Mayor said he would request the Village Engineer to develop specifications for the degree of maintenance that will be required for the private roads relying on the NYDOT guidelines.

After discussion, and on motion duly made and seconded, the Board

RESOLVED to have the Village Attorney prepare a revised draft of the proposed law, incorporating the NYDOT condition standard recommended by the Village Engineer and to schedule a hearing in June.

Voted in favor: Mayor Conway
Trustee Friedrich
Trustee Dolido
Trustee Madden

Votes against: Trustee Russo

Clean Energy Community (CEC) Grant

The Mayor reported that a bill, backed by Nassau County Executive Laura Curran will require that disposable plastic and paper shopping bags be subject to a minimum 5-cent fee at checkout. He proposed providing a reusable cotton Upper Brookville tote bag with the LED light bulbs to each homeowner in the Village.

The cost of the bag, designed with Upper Brookville and CEC logos would be reimbursed to the Village from the grant proceeds. Thomas Mullen received three bids for the design, production & delivery of 560 bags and the Mayor recommended awarding

the bid to the lowest bidder, Usimprints.com, for a total of \$3,324.60, or a per unit cost of \$5.94.

After discussion, and on motion duly made and seconded, the Board unanimously

RESOLVED, to approve the purchase of 560 reusable tote bags from Usimprints.com in the amount of \$3,324.60.

Cash Management

The Mayor recommended the Village invest its \$2,100,000 unassigned fund balance in a one-year Treasury bill at an interest rate of 2.24%. This which will earn approx. \$50K in interest—more than double what the Village currently earns on its cash balances.

After discussion, and on motion duly made and seconded, the Board unanimously

RESOLVED, to approve the purchase of a 1 year Treasury bill in the amount of \$2,100,000 through First National Bank of Long Island, using the funds in the Savings Account.

Garbage Carter License

The Mayor presented a revised Garbage Hauler License & Permit Application form, reflecting the law passed in 2017. Some changes include a license fee based on the maximum capacity of the heaviest collection vehicle to be used in the village and limits the vehicle size to 16.5 cubic yards. The applicant is also required to provide a list of their customers in the Village. No 2018 licenses have been issued to date and the license will be sent to all known carters operating in the Village.

After discussion, and on motion duly made and seconded, the Board unanimously

RESOLVED, to adopt the new Garbage Hauler Business License and Permit Application as presented.

POLICE REPORT

No Report

FIRE & STORM WATER MANAGEMENT REPORT

The Mayor noted that the Storm Water Management Program Annual Report for Year 15 prepared by West Side Engineering, PC for the period March 10, 2017 through March 9, 2018, had been posted on the Village website and at the Upper Brookville Village Hall at the Planting Fields Arboretum, Planting Fields Road, for review by the public. To date, no comments have been received. It was noted that the Annual Report must be filed with the New York State Department of Environmental Conservation no later than June 1, 2018. After discussion, the Board authorized the filing of the Annual Report and all required documents in accordance with the Department of Environmental Conservation regulations. A copy of the report was directed to be annexed to the minutes. Accordingly, on motion duly made and seconded, the Board unanimously

RESOLVED, that the Village of Upper Brookville's Storm Water Management Program Annual Report, as required by the Federal Storm Water Phase II Regulations, be and it hereby is accepted and directed that it be filed with the appropriate agencies; and

FURTHER RESOLVED, that Village Engineer, West Side Engineering, PC be and it is hereby authorized and directed to file the required 15 year 2018 Storm Water Management Program Annual Report on behalf of the Village of Upper Brookville in compliance with the Federal Storm Water Phase II Regulations, including any and all other required compliance documents; and

FURTHER RESOLVED, that the Mayor be, and he hereby is, authorized to sign any and all documents necessary for compliance with Storm Water Phase II Regulations.

ARCHITECTURAL REVIEW REPORT

No Report

LEGAL REPORT

No Report

The Mayor closed the regular meeting to enter into Executive Session to discuss the Muttontown litigation and Upper Brookville becoming an Assessing Village.

EXECUTIVE SESSION

Following Executive Session the Mayor reported that no action was taken.

The next meeting of the Board of Trustees is scheduled for Monday June 18, 2018.

Signed May 21, 2018 by
Tracy Lynch
Village Clerk