

**VILLAGE OF UPPER BROOKVILLE  
BOARD OF TRUSTEES' MEETING  
AND PUBLIC HEARING  
NOVEMBER 16, 2020  
BY ZOOM**

A Public Hearing and regular meeting of the Board of Trustees of the Incorporated Village of Upper Brookville, Nassau County, New York, was held by Zoom on Monday November 16, 2020 at 5:30 P.M.

Present:	Elliot S. Conway	Mayor
	Carl A. Friedrich	Trustee
	Edward J. Madden	Trustee
	Innis O'Rourke III	Trustee
	Antje B. Dolido	Trustee

Also Present: Tracy L. Lynch, Clerk/Treasurer  
Sam Vergata, Road Commissioner  
Peter MacKinnon, Esq. of Humes & Wagner, LLP  
Attorneys for the Village  
Stephen Limmer, Esq. of McLaughlin & Stern, LLP  
Christopher Reino, Cullen & Danowski  
Joseph Crocco, Cullen & Danowski  
Thayer Fox, Resident  
John DiMeo, Resident

The Mayor called the meeting to order at 5:36 P.M. and stated that the Village hearing and meeting is being held by Zoom which is now legally permitted by Executive Order 202.1 of the New York Governor. Call in information for the Zoom conference has been provided to the official paper and posted on the Village website and at Village Hall. 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.

**THE PLEDGE OF ALLEGIANCE**

**PUBLIC HEARING**

The Village Attorney stated that the notice for the Local Law hearing has been published in the official newspaper, sent to adjoining municipalities and each member of the Upper Brookville Board of Trustees. In addition, he has a communication from the Nassau County Planning Commission referring this matter for local determination.

The Mayor stated that the hearing will be on proposed Local Law B-2020, which will amend Chapter 205, "Zoning," of the Code of the Village of Upper Brookville. Proposed Local Law B-2020 will amend the definition of Accessory Buildings by including related facilities, such as fencing, filter and adjoining terrace, patio, deck in the definition; and to remove that portion of the definition of Family Swimming Pool that provides for any part of any appurtenant patio, terrace or deck having an elevation of not more than one foot

above the top edge of a below-grade pool and extending not more than 10 feet from the edge of the pool may project up to 15% into any required yard.

The Mayor noted that there were no additional comments from the Trustees or participants and the Board then unanimously voted to close the hearing.

#### **ADOPTION OF LOCAL LAW 2-2020**

The Board then considered the adoption of Local Law 2-2020.

After discussion, and on motion duly made and seconded, the Board unanimously **RESOLVED** to adopt Local Law 2-2020.

*(See Attached Exhibit A)*

#### **MINUTES**

The Mayor then called for approval of the Trustee meeting minutes held on October 19, 2020.

On motion duly made and seconded, the minutes were unanimously approved.  
*(See Attached Exhibit B)*

#### **PUBLIC COMMENT**

The Mayor then asked if any of the attendees had any comments.

A resident requested that the Board consider amending the noise ordinance to limit the hours that professional landscapers work on Saturday. The current ordinance allows landscaping on Saturday between the hours of 9am – 7pm and power equipment from 10am – 6pm. She noted that one adjoining municipality did not allow landscaping on Saturday and others had more restricted hours. None of the nearby Villages permit professional landscaping on Sunday.

The Mayor mentioned that the Board had recently discussed this topic in relation to noise from chainsaws on the weekend. He acknowledged this as being a problem and agreed to review neighboring ordinances and consider an amendment to the village code. Exceptions could be granted by the Mayor or Clerk when it is a health and safety issue or when cleanup is necessary following a storm. This will be circulated to the Board for discussion at a future meeting.

Another resident complained about noise related to a political event held at a private property on a Sunday and speeding on his road. He reported that he filed a complaint with the Old Brookville Police Department (OBPD) about speeding delivery trucks.

The Mayor said that speeding in the Village on some roads was a problem and it has been discussed at length in Board meetings and with the Chief of the OBPD. The Board recently approved hiring the Village Engineer to conduct a traffic study to determine ways to remedy speeding in the Village.

After further discussion, the Board unanimously agreed to close public comment.

## **FINANCIAL AUDIT**

### **Financial Audit Discussion**

Christopher Reino, a Partner at the Village's Auditor Cullen & Danowski, LLP, presented the Village's financial statements FYE 5/31/2020.

Mr. Reino explained their primary objective is to render an opinion on the Village's financial statements. Cullen & Danowski, LLP rendered an unqualified opinion on the financial statements. This year, following an appraisal of the Village assets, the Village was able to meet the reporting requirements of GASB (General Accounting Standards Board) Statement No. 34 which requires local governments to report the value of their capital assets and the depreciated expense. Mr. Reino also reported there were no noted deficiencies reported in the Management Letter.

### **Approval of Audit**

The Mayor then called for approval of the Financial Reports, including the Justice Court Fund, FYE 5/31/2020. After presentation and examination by the Board, the Trustees unanimously

**RESOLVED** to accept the Financial Reports, including the Justice Court Fund, FYE 5/31/2020 as presented by the Village Auditor. *(See Attached Exhibit C)*

## **FINANCIAL REPORT**

### **Bills**

The Clerk/Treasurer discussed all claim forms listed on the Check Detail dated November 16, 2020 in the total sum of \$175,682.30 and December 2, 2020 totaling \$216,308.27 and reported that she reviewed the supporting invoice details and/or purchase contracts with a Trustee prior to the meeting.

After discussion by the Trustees and on motion duly made and seconded, the Trustees unanimously

**RESOLVED**, to ratify the bills listed on the Check Detail dated November 16, 2020 in the total sum of \$175,682.30 and to approve the bills listed on the Check Detail dated December 2, 2020 totaling \$216,308.27 which are annexed to these minutes. *(See Attached Exhibit D & E)*

### **Treasurer's Report**

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

**RESOLVED**, to approve and file the Treasurer's Report for the month ending October 2020. *(See Attached Exhibit F)*

## **Village Hall Property**

The Board discussed the purchase of property in the Village for a future Village Hall. After discussion, the Board

**RESOLVED** to ratify the purchase of real property located at 24 Wolver Hollow Road for a total purchase price of \$1,650,000 and

**FURTHER RESOLVED** to ratify the Mayor's signing of the contract with the executor of the estate and

**FURTHER RESOLVED** to authorize the Clerk to make a payment to Campolo, Middleton & McCormick, LLP totaling \$165,000, representing the 10% down payment in the contract and

**FURTHER RESOLVED** to approve an agreement with Daniel Gale to have them act as a buyer's broker in connection with the purchase of 24 Wolver Hollow Road for a total compensation of \$16,500 payable at the time of closing if title closes.

The Mayor stated that in connection with the buyer's broker contract with Daniel Gale, Trustee Dolido is neither representing the Village or receiving any compensation from Daniel Gale or the Village. Daniel Gale's counsel would provide a letter stating the same.

The Mayor thanked Trustee Dolido for her wise council and advise during this transaction.

He also noted that the Village entered into an agreement with Nelson + Pope to provide a property survey for title purposes totaling \$6,700. The Village provided a retainer of \$3,350. The Village Engineer provided an estimate to do the survey in the required timeframe however, the price was substantially higher. The Village solicited a proposal from a third firm but the firm was not able to complete the job on time.

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

**RESOLVED** to ratify the approval of the contract with Nelson + Pope and authorize the Clerk to make a 50% down payment of \$3350 and to pay the balance when the survey is completed.

The Mayor also recommended authorizing the Village Attorney to engage Advantage Title to do a title search and issue a title policy when and if the transaction closes.

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

**RESOLVED** to hire Advantage Title to provide title services.

## **Special Counsel**

The Mayor announced that Stephen Limmer Esq. of McLaughline & Stern, LLP joined the Zoom meeting.

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

**RESOLVED** to engage Stephen Limmer, Esq. of McLaughlin & Stern, LLP as Special Counsel on various ongoing matters relating to Village policing.

## **Budget Transfers**

The Clerk presented the Board with 2019/20 budget transfers totaling \$110,656.22 which are required to present a balanced budget.

After discussion and on motion duly made and seconded, the Trustees unanimously **RESOLVED** to approve the 2019/20 budget transfers. *(See Attached Exhibit G)*

## **VILLAGE CLERK'S REPORT**

### **NYS Retention and Disposition Schedule**

The Clerk reported that the Village was required to adopt a new amended *Retention and Disposition Schedule for New York Local Government Records (LGS-1)*.

After discussion and on motion duly made and seconded, the Trustees unanimously **RESOLVED** that *Retention and Disposition Schedule for New York Local Government Records (LGS-1)*, issued pursuant to Article 57A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein and

**FURTHER RESOLVED**, that in accordance with Article 57-A:

- (a) only those records will be disposed of that are described in LGS-1, after they have met the minimum retention periods described therein;
- (b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

### **Proposed Local Law C-2020**

The Clerk introduced proposed LL C-2020 which amends Chapter 112, "*Fees and Deposits*" by adding a building permit fee for Wireless Telecommunication Services Facility in the sum equal to 2.5% of the construction cost. *(See Attached Exhibit H)*

After discussion, the Board requested that the Clerk research this fee in other municipalities and to circulate her findings to the Board for discussion at an upcoming meeting.

### **SCAR Assessment Reduction/Village & Tax Refund**

The Clerk reported that several residents were awarded assessment reductions in Small Claims Proceeding for the 2020/21 tax years against Nassau County. She noted that the Village was served copies of the Petitions and recommended that the Board authorize the reduction and refund on the Village assessment roll as required by law. After discussion and on motion duly made and seconded, it was

**RESOLVED**, that the Village Clerk/Treasurer be, and she is hereby authorized to reduce the assessed value for the premise owned by the following residents, and to refund the appropriate Village tax to the respective owner or representative based on the reduction, provided the Village taxes have been paid in full and copies of the applications were submitted to the Village as follows:

**Virgianakis** – Sec. 24, Blk. 20, Lot 5 assessed value of \$1991 reduced to \$1620 for a total refund of \$859.05.

**Cohen** – Sec. 24, Blk. 10, Lot 85 assessed value of \$1558 reduced to \$1333 for a total refund of \$520.99.

**Della Rocca** – Sec. 22, Blk. J, Lot 829 assessed value of \$1476 reduced to \$1308 for a total refund of \$389.00.

**Wolfe** – Sec. 24, Blk. 10, Lot 81 assessed value of \$1443 reduced to \$1140 for a total refund of \$701.60.

**Morey** – Sec. 24, Blk. E, Lot 176 assessed value of \$2490 reduced to \$2036 for a total refund of \$1051.24.

**Rubinstein** – Sec. 22, Blk. 26, Lot 10 assessed value of \$982 reduced to \$737 for a total refund of \$567.30.

**Hassan** – Sec. 18, Blk. A, Lot 974 assessed value of \$1884 reduced to \$1608 for a total refund of \$639.08.

**Handler** – Sec. 24, Blk. 10, Lot 72 assessed value of \$1361 reduced to \$1116 for a total refund of \$567.30.

### **Snowplowing on Private Roads**

Trustee Friedrich reported that private road residents have to contract with independent snowplow companies to plow their roads. The contractor that plows his private road is no longer able to provide this service. He met with John McGowan and Sons and asked if they could provide a uniform service contract to plow and sand private roads in the Village with the option for plowing driveways and cleaning front stoops to where it meets the driveway. McGowan agreed, providing any contracts are made with Homeowners Associations (HOAs) directly and not private homeowners.

Trustee Friedrich circulated the proposal to the Board and recommended that the Village forward the information to known HOA's and private road residents. He agreed to draft correspondence for review by the Mayor and Village Attorney.

## **ROAD COMMISSIONER/CODE INSPECTOR REPORT**

The Road Commissioner reported that his crew was busy with fall cleanup throughout the Village. The new line striping was completed on Mill River Road, Ripley Lane and Planting Fields Road. The line striping had been delayed so the crew could first fill cracks in the center line area with tar.

## **BUILDING DEPARTMENT REPORT**

The Clerk/Treasurer referred to the reports submitted by the Building Department Clerk for October 2020 activity. *(See Attached Exhibit H)*

## **MAYOR'S REPORT**

### **Deputy Police Commissioner**

The Mayor thanked Deputy Police Commissioner Madden on all the work he has done with the Police Commissioners and mayors and his effort to provide us with uninterrupted, exceptional police protection while keeping the lines of communication open with many of our village partners. Commissioner Madden had agreed to serve until certain negotiations were completed and as there has been a pause, the Mayor appointed Trustee Friedrich as Deputy Police Commissioner to complete Commissioner Madden's term.

### **Generator Bulk Purchasing**

The Mayor reported that he received pricing information from Paraco fuels and was preparing an email to residents offering a volume discount on the purchase and installation of generators and underground fuel tanks.

### **Lawn Lane Cul-De-Sac**

The Mayor reported that the transfer was approved by the Nassau County Legislature and that the Village Attorney was waiting for the draft deed to be sent by the Nassau County. Once the property is formally transferred, the Village will reimburse the resident who paid for the reconstruction of the portion of the cul-de-sac roadway fronting her property.

### **Mill River Road Property Foreclosure**

The Mayor reported that Nassau County is considering granting a waiver of back taxes due on this property if the Village acquires the property for municipal purposes, providing that if, at a later date, the Village sells the property for cash, there would be a negotiated sharing of the proceeds with Nassau County to cover the outstanding taxes due.

### **Mill River Road Speeding**

The Mayor reported that the Village Engineer and the Village Attorney both advised against the installation of speed humps on Mill River Road. As such, the Board decided to seek other traffic calming solutions address speeding, including possible stop signs.

**POLICE REPORT**

No Report

**FIRE & STORM WATER MANAGEMENT REPORT**

No Report

**ARCHITECTURAL REVIEW REPORT**

No Report

**LEGAL REPORT**

No Report

**EXECUTIVE SESSION**

The Mayor closed the meeting at 7:25 p.m. to enter into Executive Session to discuss personnel matters, police matters and avoiding litigation.

At 8:15 p.m. the Board came out of Executive Session and on motion duly made and seconded, the Trustees unanimously

**RESOLVED** to authorize the Mayor to investigate obtaining a consultant to advise the Village as to the level of police protection the Village should be looking for in the future to provide for its residents.

The Mayor recommend and the Board agreed to reschedule the next regular meeting of the Board of Trustees to Monday December 14, 2020 at 5 p.m. The meeting was adjourned at 8:20 p.m.

Signed by TL Lynch 1/21/21

Tracy Lynch  
Village Clerk