

**VILLAGE OF UPPER BROOKVILLE  
BOARD OF TRUSTEES' MEETING  
OCTOBER 16, 2017**

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 October 16, 2017 at 6:30 P.M.

<b>Present:</b>	Elliot S. Conway	Mayor
	Francis J. Russo	Trustee
	Edward J. Madden	Trustee
	Antje Dolido	Trustee
	Carl A. Friedrich	Trustee

<b>Also Present:</b>	Tracy L. Lynch, Village Clerk/Treasurer
	Samuel Vergata, Street Commissioner
	Joseph Burns, OBCSHPC Chairman
	Mr. Brodie, Village Resident
	Mr. Werther, 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.

**Oyster Bay/Cold Spring Harbor Protection Committee (OBCSHPC)**

Mr. Burns, the OBCSHPC Chairman for the Village, updated the Board on the recent initiatives the Committee is working on to protect the watershed. Mr Burns described the usefulness of environmental imaging via drones in place of expensive and labor intensive ground based sampling to determine sources of potential watershed contamination. Drone aerial imagery can be used to identify and locate unwanted ground based sewage seepage & related storm drain runoff which have consequent effects on our aquifer and fish resources. Inexpensive sophisticated consumer drones with cameras are accessible to municipalities. The Board commended Mr. Burns for his efforts to date agreed to assist him in investigating sources of grant money to fund the drone, camera and appropriate software for analyzing the imagery.

**MINUTES**

The Mayor called for approval of the minutes of the Trustee meeting held on September 18, 2017 which, on motion duly made and seconded, were unanimously approved.

## **PUBLIC COMMENT**

No comments were made by attendees.

## **FINANCIAL REPORT**

### **Bills**

The bills listed on Warrant No. 005 in the total sum of \$247,782.80 dated October 16, 2017 which are annexed to these minutes, were, on motion duly made and seconded, approved for payment.

### **Treasurer's Report**

The Final Treasurer's Reports for the month ending September 2017 was presented, examined, approved and ordered filed.

## **VILLAGE CLERK'S REPORT**

### **Affidavit in Lieu of Lost Tax Sale Certificate**

The Village Clerk advised the Board that Mr. Albert Kalimian, purchase of tax sale certificate number 3-2014 in the amount of \$3474.84 has lost his certificate. Mr. Kalimian has provided an Affidavit in Lieu of the lost Certificate. After discussion the Board accepted the Affidavit in Lieu of the original certificate.

### **Article 7 Assessment Reductions/Village Tax Refunds**

Next, the Village Clerk stated that the Article 7 Proceeding, between Philip Rafiy and the County has been settled for the 2011/12 tax year. Accordingly on motion duly made and seconded, the Board unanimously

**RESOLVED**, that the Article 7 Proceeding, between Mr. Rafiy and the County for the property designated below, the years and amounts indicated below, be, and the same hereby is, settled; and it is

**FURTHER RESOLVED**, that the Treasurer be, and she hereby is, authorized to make said refund in connection with said proceeding for the following:

Rafiy - Sec. 24, Blk. E, Lot 1056, assessed value of \$14,302, reduced to \$13,707 for 2011/12 tax year for a total refund of \$496.

### **Film Permit**

The Clerk noted that a film permit request had previously been approved by the Board which included the parking of a large rig along the right of way on Wolver Hollow Rd. Thereafter, the Board, on motion duly made and seconded, ratified their approval of a film permit at 1325 Wolver Hollow Road for commercial filming on October 19<sup>th</sup>, 20<sup>th</sup>, 23<sup>rd</sup> & 24<sup>th</sup>.

## **MAYOR'S REPORT**

### **New York State License Agreement**

The Mayor discussed the impending relocation of the Village Hall and presented the Board with the License to use and occupy the "Carriage House" at Planting Fields Arboretum beginning October 15, 2017 and ending December 31, 2027. The Village will pay State Parks a \$500 annual fee in advanced plus \$600 per quarter for the cost of utilities and fuel oil. The State also agreed to the following improvements by the Village: 3-new energy efficient air conditioning condensers, new carpets, wiring or rewiring as required to accommodate telephone & internet connections, painting all walls, removal of a non-structural storage enclosure in meeting room, installation of speakers in meeting room ceiling & installation of handicap access ramps as necessary. Under the License, all trash removal and maintenance, including major systems such as electric, plumbing, potable water, sanitary, heating and ventilations systems, will be the responsibility of the Village. If at any time during the term of the License, State Parks shall need the premises, they may terminate the License by giving the Village ninety (90) day notice.

The Board previously approved the expenditure of up to \$100K for improvements and furniture for the new Village Hall location. The Court also recently applied for a grant to cover some of the expenses associated with the new air conditioning condensers, speaker system and new dais. The Building Inspector will also conduct an inspection of the building to verify the structure is sound.

Accordingly on motion duly made and seconded, the Board unanimously

**RESOLVED**, to approve the License for the village use of the "Carriage House" as a Village Hall at Planting Fields Arboretum" from October 15, 2017 through December 31, 2017 with the conditions set forth in the License (copy attached), and

**FURTHER RESOLVED**, that the Mayor or Deputy Mayor be authorized to sign the license with New York State on behalf of the Village.

### **Burglar Alarm Law**

The Mayor reported that the Old Brookville Police Department (OBPD) spends a significant percentage of their time responding to burglar/fire alarms of which over 99% are false alarms. For safety reasons, two sworn officers respond to these false alarms which are found to be mainly user error, unknown causes or faulty systems. Residents with alarms now pay \$20/year for a permit renewal, as well as \$150 for an annual third party inspection. These annual inspections are mandatory without regard to (a) the number of false alarms or (b) whether the alarm is ever turned on.

The Mayor proposed amending the existing law as follows:

1. Charge a \$100 fee for a 5-year alarm permit. This would reduce the OBPD administration costs by 80%, while residents would pay the same over 5 years.
2. Eliminate the requirement for annual third party inspections which could save alarm owners up to \$750 over 5 years.

3. Eliminate the OBPD as potential inspectors. VUB or OBPD will instead maintain a list of approved (licensed) installer/inspectors.

4. Require third party inspection if an alarm is triggered twice in a six month period.

5. Require unlicensed residents who trigger a false alarm to pay a \$500 license fee to cover the remaining term which is 5 years following the expiry of their last license.

The Mayor believed that over time, these changes should serve to lower the cost of police overtime and result in more efficient/economical policing. The goal is not to generate revenue but to eliminate false alarms.

The Board also discussed the option of imposing more attention-getting fines for blatant offenders. The law will permit the Board to amend the fine schedule by Resolution. The Board directed the Village Attorney to prepare the appropriate legislation to amend the burglar alarm ordinance as highlighted.

### **Tree Removal Permit Fees**

The Mayor presented a draft tree removal permit application similar to the permits used by the Villages of Matinecock and Cove Neck, which replaces the single \$50 permit fee with a sliding scale as follows:

- \$75 for up to five trees
- Six to ten trees is \$35 per tree
- Eleven to twenty trees is \$50 per tree for every tree to be removed beyond 5
- For 31 trees or more is \$75 per tree for every tree to be removed beyond 5

After reviewing the application, the Mayor agreed to work with the Tree Inspector and Building Department to clarify the language.

### **Permit Doubling Fees**

The Mayor recommended adding a general provision in the code to require permit fees be doubled when an activity commences in the Village, without a valid or required permit. Accordingly on motion duly made and seconded, the Board unanimously

**RESOLVED** to double all permit fees when applicant engages in activity without a valid permit.

### **Volume Exceptions**

The Mayor described his concern that potential residents desiring to build larger homes on properties greater than 5 acres were deterred from settling in the Village as our zoning code is oriented to 2 and 5 acre lots. He opened the subject for discussion as the Trustees both protect the bucolic and historic character of the Village to determine if there was interest in allowing larger homes to be built on larger properties. He pointed out that the Zoning Board of Appeals rules on variances, but this only applies when an existing

structure is being potentially enlarged. There is no mechanism in the village code that permits a prospective resident, desiring to build on a larger property, to access the Zoning Board of Appeals. The Mayor queried if the Board should consider adding provision in the code that would encourage prospective residents or property developers to approach the Board with a proposal. This might promote new building in the Village on the limited number of large properties that exist.

As some Board members expressed concerns about the proposal, the Mayor agreed to present draft legislation for review by the Board at the November meeting.

#### **Proposed Local Law C-2017 "Vehicle & Traffic"**

The amendment to Chapter 195 proposes a fine to repair damages to an unpaved shoulder, not to exceed a maximum amount of \$2,000, for persons parking, standing or stopping on the unpaved shoulder of a public right of way in a manner that causes damage to such unpaved shoulder.

The Board discussed aspects of the proposed amendment to the "Vehicle & Traffic" Law. The Village attorney noted the Board's comments and agreed to circulate a revised draft in time to hold a hearing at the November meeting.

#### **Proposed Local Law I-2017 "Commercial Filming"**

The proposed new Chapter 151 allows the Village to charge (a) up to \$10,000 per day for Commercial Filming Permits on properties 20 acres or greater in the Village, (b) a \$2,500 per day fee for Commercial Filming Permit on all other residential properties in the Village and a (c) charge of \$1,000 per day for an Accessory Filming Use Permit fee for the use of village roads or any property within the Village for storage & use of film related equipment when filming occurs outside of the Village.

The Board discussed aspects of new Chapter 151 "Commercial Filming". The Village attorney noted the Board's comments and agreed to circulate a revised draft in time to hold a hearing at the November meeting.

#### **Proposed Local Law J-2017 "Streets and Sidewalks"**

The amendments to Chapter 177 proposes a fine of \$400 to any person found causing damage to the shoulder of a road.

The Board discussed aspects of the proposed amendment to the "Streets & Sidewalks" Law. The Village attorney noted the Board's comments and agreed to circulate a revised draft in time to hold a hearing at the November meeting.

#### **Proposed Local Law G-2017 & H-2017 "Solid Waste"**

The amendments to Chapter 172 proposed recycling requirements by individuals and firms that provide collection and disposal of resident's solid waste in the Village, a

maximum collection vehicle capacity, weight & type, as well as revisions to collection regulations, applications for licenses and penalties for offenses.

The Board discussed aspects of the proposed amendment to the "Solid Waste" Law. The Village attorney noted the Boards comments and agreed to circulate a revised draft in time to hold a hearing at the November meeting.

### **Cash Management**

The Mayor presented a chart to the Board demonstrating potential earned interest income if the Village invests its funds in CD's and Treasury Notes. The Village is currently earning around .15% APR and could increase that to around 1.5% through cash management, with a potential to earn on average around \$60K per year in interest. The Board agreed to explore a cash management program with either The First National Bank of Long Island or another suitable banking provider to secure a fixed interest amount on Village funds through investments in CD's and/or other approved money market instruments. Trustee Friedrich agreed to follow up on this initiative.

### **Zoning Fees**

The Mayor noted that costs have been escalating and building projects and subdivisions are larger in scale and some applications have been more complex. He proposed raising the maximum expenditures of applicants on future Zoning Board of Appeals applications (112-4) as follows:

- |                     |                      |
|---------------------|----------------------|
| (a) Advertising     | \$750 to \$3000      |
| (b) Stenographer:   | \$2500 to \$7500     |
| (c) Engineering:    | \$5000 to \$15,000   |
| (d) Consultants:    | \$10,000 to \$20,000 |
| (e) Recording Fees: | \$500 to \$1000      |
| (f) Legal:          | \$20,000 to \$50,000 |

Accordingly on motion duly made and seconded, the Board unanimously

**RESOLVED** to raise maximum expenditures of applicants as detailed above, for new Zoning Applications.

### **OPPOSING ELIMINATION OF THE DEDUCTIBILITY OF STATE AND LOCAL TAXES (SALT)**

The Mayor explained if Congress votes to take away taxpayers' state and local tax deduction, millions of families in New York will be hit with a "one-two punch" of higher taxes and lower home values. This will harm city and village bottom lines and hurt the Village's ability to provide key services. Accordingly, on motion duly made and seconded, the Board unanimously adopted the following preambles and resolution:

**WHEREAS**, Congress is giving serious consideration to eliminating the federal income tax deduction for state and local taxes; and

**WHEREAS**, this deduction, which has been in place for more than 100 years, is heavily utilized by residents of our community and our State; and

**WHEREAS**, New York residents already pay more into the federal treasury than the federal government returns to New York; and

**WHEREAS**, the state and local tax deduction is a fundamental principle of federalism and without it our residents would be faced with double taxation as they would be forced to pay federal income taxes on the taxes they pay to state and local governments; and

**WHEREAS**, this federal cost shift onto local governments would place extreme pressure on municipal budgets, including diminished revenue for essential local government investments, including public safety and public infrastructure; and

**WHEREAS**, increased federal taxation and reduced municipal services will harm our local housing market, decrease home values and erode our local tax base, and

**NOW THEREFORE BE IT RESOLVED**, that the Village of Upper Brookville expresses its strong opposition to any tax reform proposal that would eliminate the State and Local Tax (SALT) Deduction and urges Representative Thomas R. Suozzi to join us in publicly opposing any such proposal.

### **Planting at OBPD**

The Mayor and Beautification Committee received a proposal from Heritage Farm & Garden to plant around the OBPD headquarters and underneath and beside the police sign on the corner of Wolver Hollow Rd & Northern Boulevard. Heritage also proposed to plant seasonal flowers around these beds at their cost for the next 5 years. At the last OBPD Commissioners Meeting, the six Village Board agreed to pay for half the proposed plantings up to \$2,500. Accordingly on motion duly made and seconded, the Board unanimously

**RESOLVED** to accept the planting plan proposed by Heritage Farm & Garden and pay half of the cost of planting and installation up to but not to exceed \$2,500.

The Board directed The Village Attorney to prepare a License Agreement between the Village and the resident on the corner of Wolver Hollow Rd. & Northern Blvd to allow

the corner portion of his property to accommodate the Upper Brookville Welcome Sign and plantings. Once signed, the Road Commissioner will relocate the existing sign outside of the State Right of Way.

### **ZBA/PB Members from Nassau County**

A resident in Upper Brookville who has participated as a Member of the Zoning Board of Appeals (ZBA) for many years, sold her home and temporarily was living outside of the Village while looking for another home in the Upper Brookville. The Board of Trustees resolved earlier this year to permit her to continue serving on the Board during this process. Unable to find a suitable home in Upper Brookville, she has purchased a home nearby but outside of Upper Brookville.

A discussion ensued as to whether residents of Nassau County should be allowed to serve as a Board Member of the ZBA or the Planning Board, It was agreed that the Village has sufficient capable and talented individuals with a desire to serve on Village Boards without needing to reach out to individuals with little or no current connection to the Village.

The Mayor requested the Board allows the former resident in question to remain on the Board until the earlier of year end or the time that a suitable replacement is identified. After discussion the Board unanimously

**RESOLVED** to allow the former resident to remain on the Board until 12/31/17 or such earlier time as a suitable replacement is appointed.

### **Lighting**

The Mayor reported that a section of the Village Code that dates back many years does not allow lighting on athletic courts. The Village has since passed a law that prohibits a light source from projecting more than 0.2 foot candles onto an adjoining property in the five & two acre Zoning Districts. There is currently an application before the ZBA looking for permission to install down lighting on paddle courts in their rear yard near Chestnut Hill Drive. Residents of Chestnut Hill had initially opposed the lighting but, following a nighttime demonstration of the proposed lighting, they agreed that if the applicant also agreed to install a row of trees in front of the stockade fence along Chestnut Hill Drive, they would no longer oppose and instead support the proposed paddle court down lighting. One of the Trustees expressed concern about amending this law as it was adopted to limit the light pollution in the Village, a goal the Trustee strongly supported.

The Board agreed to inspect the Chestnut Hill Drive site to reach their own determination if a demonstration of the lighting could be arranged before the next Board meeting. They agreed to continue the discussion at the November meeting.

### **Terrace Lane**

A resident of Upper Brookville who resides on the Village owned portion of Terrace Lane, asked the Mayor if the Village would consider including the repaving of this road as part of the 2017 Road Reconstruction Projects.



The majority of Terrace Lane belongs to the Town of Oyster Bay and when it was originally surveyed by the Mayor, Village Engineer and Road Commissioner they decided that since it was in better condition than Lawn & Hillcrest Lanes, the Village should wait until Oyster Bay reconstructed their portion. We understand from the resident that Oyster Bay will not be redoing this road for another 7 to 8 years. The Village Engineer & Road Contractor took a look at it again and suggested that the Village repave the road with oil and stone.

The Mayor noted that the Board previously agreed to amend the McGowan contract to include the Village's portion of Terrace Lane and proceed with the work recommended by the Village Engineer. Thereafter, the Board on motion duly made and seconded, ratified their approval to include Terrace Lane in the 2017 Road Reconstruction project at a cost of approximately \$16,000.

The Mayor mentioned that he had been notified by a resident that the street light at the Lawn Lane cul-de-sac was now working. He noted that the resident living off the cul-de-sac hired McGowan to repave their portion of the road and the paving crew may have discovered and reconnected a broken wire which repaired the street light.

### **Speed Humps**

The Mayor circulated a study that researched speed humps and their effectiveness in calming traffic, reducing accidents and influencing motorists to divert to alternate routes thereby extending the life of the road. The Village Engineer reviewed the study and agreed that humps have a calming impact. The Board will continue to study this option as a measure to slow down traffic in the Village.

### **Grant Updates**

The Mayor reported that the Village \$100K Clean Energy Community Grant had been conditionally approved by NYSEDA. The funding will be used to replace the remaining traditional Village lights with LED fixtures, purchase 8 LED bulbs to be distributed to each household, purchase more Village welcome signs and a plaque for Village Hall that indicates the Village is a Clean Energy Community.

The Village was notified it had been conditionally approved for an additional \$100,000 State grant to help defray the costs to repave Friendly Lane last year. The Village plans to apply for further grants for the repaving of Planting Fields Road.

### **BUILDING DEPARTMENT REPORT**

The Clerk/Treasurer referred to the reports submitted by the Building Department Clerk for September 2017 activity.

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

The Road Commissioner reported that McGowan & Sons had completed 95% of the road resurfacing for Lawn, Hillcrest, Locust & Linden Lane roads. He will schedule a walk through with the Contractor & Village Engineer to compile a punch list of unfinished items. Construction on Cedar Ridge, Pine Valley and The Knoll is expected to begin the week of October 24<sup>th</sup>.

#### **POLICE REORT**

No Report

#### **FIRE & STORN WATER MANAGEMENT REPORT**

No Report

#### **ARCHITECTUREAL REVIEW REPORT**

The Commissioner reported she is seeing an increase in Village construction of the more modern home designs that includes flat roofs and green roofs which may need to be addressed by the Board in the future.

#### **LEGAL REPORT**

No Report

#### **EXECUTIVE SESSION**

The Mayor closed the regular meeting to enter Executive Session to discuss several matters.

After exiting Executive Session, the Mayor reopened the meeting.

#### **ENFC**

The Mayor and Village Attorney reported that the East Norwich Fire Company proposed contract is still under discussion while Upper Brookville continues to make timely payments for fire protection services. To date, Muttontown is the only Village to sign the ENFC contract. The Town of Oyster Bay and the Village of Upper Brookville have not formally signed.

#### **PERSONNEL**

The Clerk requested additional help in the office and asked the Boards approval to increase the Building Department Clerk's hours to at least 3 days per week. The Village Clerk was requested to investigate whether the Building Department Clerk could access New York State health insurance as a part time employee. The Board agreed with the concept of increasing the Building Department Clerk hours and requested the Mayor submit a formal proposal in November.

The next meeting of the Board of Trustees is scheduled for Monday,  
November 20, 2017.

Signed by the Village Clerk