

**VILLAGE OF UPPER BROOKVILLE
BOARD OF TRUSTEES' MEETING**

JULY 20, 2020

A regular meeting of the Board of Trustees of the Incorporated Village of Upper Brookville, Nassau County, New York, was held via Zoom on Monday July 20, 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

The Mayor called the meeting to order at 5:40 P.M. and stated that the Village 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 papers 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.

MINUTES

The Mayor then called for approval of the minutes of the Trustee meeting held on June 15, 2020.

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

FINANCIAL REPORT

Bills

The Clerk/Treasurer discussed all claim forms listed on the Check Detail dated July 17, 2020 in the total sum of \$14,157.17 and August 3, 2020 totaling \$45,570.89 and reported that she reviewed the supporting invoice details and/or purchase contracts with a Trustee earlier in the day.

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 July 17, 2020 in the total sum of \$14,157.17 and approve the bills listed on the Check Detail dated August 3, 2020 totaling \$45,570.89 which are annexed to these minutes.

(See Attached Exhibit B)

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 June 2020. **(See Attached Exhibit C) **

VILLAGE CLERK'S REPORT

Justice Court Assistance Program (JCAP) Grant

The Clerk reported that JCAP was allowing each court to request up to \$1,000 to be reimbursed for personal protective equipment (PPE) purchased on behalf of its justice court and any amount awarded will offset any further JCAP funding awarded during the 2020-21 grant period. The equipment purchased consists of protective barriers, disinfecting spray, a digital thermometer and distance markers.

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

RESOLVED to purchase the PPE items and approve the request to JCAP for reimbursement of PPE up to \$1,000.

FEMA Reimbursement

The Clerk also reported that she submitted a project application to FEMA'S Public Assistance Program requesting a reimbursement of PPE purchased by the Village in it's response to the coronavirus. For an application to be considered, you must have at least \$3,300 in eligible expenses and submit the application before the July 31, 2020 deadline. FEMA will fund not less than 75% of eligible expenses.

The materials purchased by the Village, totaling \$4,146.24, include protective barriers, hand sanitizer, 4000 surgical masks distributed to residents and employees and travel expenses to pickup masks. Although the Village also has COVID related legal expenses, they are not eligible for reimbursement

SCAR Assessment Reduction/Village & Tax Refunds

The Clerk reported a resident was awarded an assessment reduction in Small Claims Proceeding for the 2013/14, 2014/15 and 2015/16 tax years against Nassau County. She noted that the Village was served a copy of the Petition 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 premises owned by the following resident, 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 applications were submitted to the Village as follows:

Rafiy – Sec. 24, Blk. E, Lot 1056, 2013/14 assessed value of \$13,159 reduced to \$12,059 for a total refund of \$1,233.54

Rafiy – Sec. 24, Blk. E, Lot 1056, 2014/15 assessed value of \$13,159 reduced to \$11,459 for a total refund of \$2,096.95

Rafiy – Sec. 24, Blk. E, Lot 1056, 2015/16 assessed value of \$12,555 reduced to \$10,085 for a total refund of \$2,200.31

ROAD COMMISSIONER/CODE INSPECTOR REPORT

The Road Commissioner reported that the centerline on Mill River Road has worn off and asked the Board to consider repainting the lines as they are an important safety function on the road.

After discussion by the Trustees, the Board instructed the Road Commissioner to obtain bids to repaint the centerline and report back with pricing at the next meeting.

He also requested that the Board consider the purchase of additional speed radar signs throughout the Village. He reported that the speed radar signs installed on Mill River Road have helped significantly in reducing the speed of vehicles traveling the roadway.

The Clerk reported that the lowest pricing available is from the company used previously, Traffic Systems Incorporated. The AC powered signs with installation and the solar signs cost around \$3,600 each. Both would be equipped with the StreetSmart data collection package. She also confirmed with NYSERDA that the Village could use the remaining \$9,500 in Clean Energy Community grant funds toward the purchase of the signs.

The Mayor then arranged with the Road Commissioner to drive through the Village to determine suitable locations for additional signs. Likely roads included Planting Fields, Ripley and Piping Rock.

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

RESOLVED to purchase three speed radar signs, using the remaining grant funds of \$9,500 plus an additional \$3,000 from the Village's General Fund.

BUILDING DEPARTMENT REPORT

The Clerk/Treasurer referred to the reports submitted by the Building Department Clerk for June 2020 activity.

The Mayor then reported his findings on the setback requirements of electric vehicular gates on private driveways. He confirmed the determination by the East Norwich Fire Company Chief Rosen that the overall set distance should be 20 feet from the edge of the roadway, including any village easement. New York State law requires the keypad to be at least 6 feet from the gate. Any such gate should be located on the owner's property. This distance needs to be sufficient for an auto or emergency vehicle, like an SUV, to approach the gate and enter the access code without blocking traffic on the roadway.

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

RESOLVED to establish the following standards for the Building Department and the Site and Architectural Review Committee when reviewing plans for the installation of electric vehicular gates:

- Gates must be installed a minimum of 20 feet from the edge of the road, the distance should include the village easement, and
- The keypad must (a) be installed a minimum of 6 feet from the gate and (b) sited on the owner's property.

The standards will be effective as of the date of this meeting. The standards will also apply to any residents with gates installed prior to the date of this meeting, if they were installed without a permit.

MAYOR'S REPORT

Capital Asset Appraisal Update

The Mayor referred to the Capital Asset Depreciation submitted by Appraisal Affiliates, Inc. of the Village's material assets. The Undepreciated Cost of all land, buildings, improvements other than buildings, machinery & equipment and infrastructure was \$2,909,363 as of fiscal year end May 31, 2020.

The report will eliminate the variance between our New York State Annual Update Document (AUD) and our financials audited under generally accepted accounting principles (GAAP) and will be updated annually.

Mill River Road Property

The Mayor reported on a recent call to the Village from a real estate agent reporting that a tax lien holder had foreclosed on a 2-acre lot on Mill River Road, aka 24-E-293. The lot has been listed for sale for some time by various firms. As a result, real estate brokers and interested buyers often call the village inquiring about back taxes and zoning matters.

Property taxes and penalties owed to the Village have not been paid for 30 years and total \$112,126.34. The Nassau County Treasurer reported on Feb 24, 2020 that they are owed \$407,780.85 in back taxes.

The lot was created by a series of land swaps and transfers between 1951 and 1964 and does not conform to the Village Zoning Ordinance. It is a 2.6+ acre lot with frontage of 20 feet and a width of 200 feet. It is in an area requiring five acres, a frontage of 300 feet and a width of 300 feet.

Over the years, two different owners have gone to the Upper Brookville ZBA to seek approval to construct a single-family residence. Both were denied. Based on the two previous BZA decisions in 1964 and 1988 and a 1965 Article 78 proceeding, the lot is currently unbuildable under our building code. The first time it was denied because the ZBA deemed the lot to be a self-created non-conforming lot. Later, the Supreme Court of New York upheld the denial. A second owner who purchased the property in foreclosure

and with full knowledge of the issues, went back to the ZBA in 1988 and was denied. In a 9/15/88 decision, the BZA denied his appeal as there had been no valid change of circumstances that would warrant its consideration.

It was reported that there had been two foreclosure proceedings on the property. The first bidder defaulted on the sale and lost their down payment. It appears to have been sold a second time and we have been advised it may end the same way.

The Mayor believes the property could be used by the Village for a variety of purposes and recommended taking whatever actions were necessary to foreclose on the property. The Mayor agreed to pursue the matter with Nassau County before the Village starts foreclosure proceedings and will report back to the Board.

COVID-19 Testing for Village Residents

The Mayor discussed the concern of residents that COVID testing can take up to 10 days to get results and many rapid testing locations are booked up and far away. He raised the possibility of having a doctor referred by Town of Oyster Bay officials come to Village Hall one afternoon soon to test residents. The cost would be \$195 for a rapid nasal test and \$350 for the rapid test plus two antibody tests.

The Mayor contacted Planting Fields to determine if there were any issues with having such testing in a State Park. We have not heard back from the park officials.

After a discussion raising appropriate legal and medical concerns, the Board agreed not to pursue offering COVID testing at Village Hall at this time.

Old Brookville Police Headquarters Lease; Independent Study Completed

The Village of Upper Brookville has owned property that has historically been leased for use by the Old Brookville Police Department for its headquarters (“HDQ”). The Old Brookville Police Department has provided police protection to the Village of Upper Brookville and several other North Shore Villages.

Under the present lease with the other OBPD protected Villages, Upper Brookville has retained the right to sublease a portion of the property for its own purposes so long as, in its reasonable sole judgement, such sublease use does not adversely interfere with the Old Brookville police activities.

The Village of Upper Brookville has been in negotiations with AT&T to locate a cell tower in the Village to improve cellular reception for Village residents—especially 911 coverage for emergency and medical purposes. It is intended that the AT&T facility would also accommodate a new police communication system, which would replace the existing police tower.

In order to best serve the Village, the Village and AT&T found that the village property that is presently leased for the HDQ was the most appropriate and effective location to serve those needs.

Under the current lease with the Villages served by the Old Brookville Police, the Village of Upper Brookville as Lessor may use the headquarters site for other uses, which in the Village of UB's sole discretion does not prevent or interfere with the use of the property for police operations.

The Upper Brookville Village Board wanted to fulfill its obligations under the lease to determine whether leasing a portion of the HDQ Site to AT&T did in fact prevent or interfere with the use of the HDQ Site for police operations and, at the June 15, 2020 Board meeting authorized an independent study on this issue.

The Village commissioned the Center for Governmental Research (CGR) to study the issue. The Mayor reported that subject to final research, CGR plans to complete and issue their report in two days. CGR is a highly respected 105-year old consulting firm with an expertise in police, fire, EMS analysis and emergency services planning. They are an industry leader in providing independent, objective and actionable evaluations of municipal structure, finances, operations, services and efficiency.

The study also considered the alternate proposal under consideration by the Board of Police Commissioners to construct a 120-foot monopole tower in substantially the same location west of the HDQ building, at an additional cost to the villages of approximately \$175,000. The alternate tower would have a police antenna only with no improvement of cell service to benefit the residents of Upper Brookville.

POLICE REPORT

No Report

FIRE & STORM WATER MANAGEMENT REPORT

No Report

ARCHITECTURAL REVIEW REPORT

No Report

LEGAL REPORT

The Village Attorney discussed three pending litigation matters. Some matters have been delayed or postponed due to the pandemic.

EXECUTIVE SESSION

The Mayor closed the meeting at 6:45 p.m. to enter into Executive Session to discuss police matters including the 6 village Joint Protection Agreement and the OBPD Cell Tower proposal. At 7:15 p.m. the Board came out of Executive Session and no action was taken.

The meeting was adjourned at 7:20 p.m. The next meeting of the Board of Trustees is scheduled for Monday September 21, 2020.

Signed by TL Lynch on 9/21/20

Tracy Lynch
Village Clerk