

**VILLAGE OF UPPER BROOKVILLE  
BOARD OF TRUSTEES MEETING  
COTTAGE AT 24 WOLVER HOLLOW ROAD  
MARCH 18, 2024 AT 5:30 P.M.**

A regular meeting of the Board of Trustees of the Incorporated Village of Upper Brookville, Nassau County, New York, was held in Village Hall, in the Cottage at 24 Wolver Hollow Road on Monday March 18, 2024 at 5:30 p.m.

Present:	Elliot Conway	Mayor
	Peter Pappas	Deputy Mayor
	Joseph Burns	Trustee
	Innis O'Rourke	Trustee

Absent:	Helen Solomon	Trustee
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Also Present: Tracy L. Lynch, Clerk/Treasurer  
Linda Scherer, Deputy Clerk/Treasurer  
Collen O'Toole, Building Clerk  
Chief Eric Irizarri, Muttontown Upper Brookville PD  
Peter Colgrove, Esq. of Humes & Wagner, LLP  
Attorneys for the Village  
Sam Vergata, Road Commissioner

The Mayor called the meeting to order at 5:35 p.m.

**THE PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT**

Two residents who live on Pond View Drive, a private road in the Village, asked when and if the Village would repave and adopt their road.

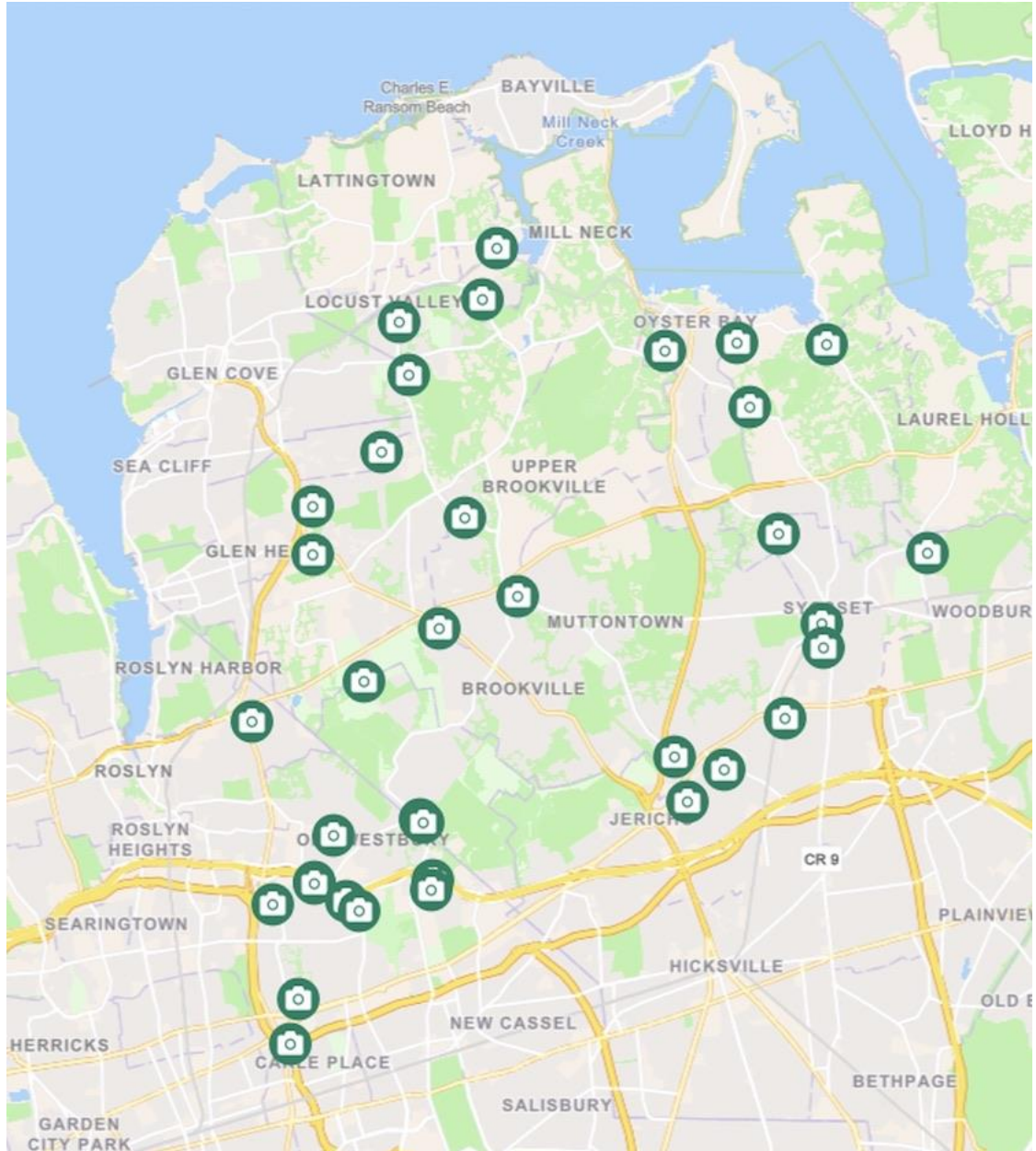
The Mayor explained that over half the residents of the Village live on private roads and, to the best of his knowledge, none had been adopted in the past 50 years. He said that previous Boards had discussed the issue without a decision. At the time, the minimum requirements would have included a requirement that the private road community first repaved their road to Village standards and all residents agreed without exception to participate in the Village Garbage District.

**MUBPD REPORT**

Chief Irizarri presented the January and February 2024 Police Reports. He noted that we are approaching two years of the partnership and have received positive feedback from the residents.

He reported that 24 out of a potential 34 license plate readers have been installed (see map below) among the nine village partners, informally known as the "Ring of Steel". The majority were funded through a federal grant facilitated by Senator Kirsten Gillibrand. The Chief also mentioned he has applied for a law enforcement tech grant through Governor Hochul's office to pay the 5-year lease expense for the readers in Muttontown and Upper Brookville. To date, seven of ten solar-powered readers have been installed in

the two villages.



He reported on the recent theft from a nearby resident of Brookville of her Rolls Royce. She resisted the theft and was dragged a short distance without injury. The thief got away.

The Chief also reported that there have been around 4 deer strikes since December 2023. In the last six months of 2023, there were 41 deer/vehicle incidents.

## MAYOR'S REPORT

### Legislative Update

The Mayor reported that he would be travelling to Albany after the meeting and would be meetings with various Senators, Assemblyman and the State Comptroller to discuss a number of bills that the Village and the NCVOA are supporting:

1. Reduce fentanyl use and drug overdoses by making it a felony to possess, manufacture, sell or distribute fentanyl.
2. Roll back changes to the discovery rules. Charges are being dropped because the prosecutors have insufficient time to produce all supporting documentation, resulting in a high percentage of defendants having their charges dropped. The bill is being supported by Nassau County District Attorney Anne Donnelly.
3. EMS Cost Recovery. Cost Recovery has the potential to generate \$34+ million annually for Nassau County residents. Cost recovery funds can enhance all EMS services and materially lower the local property tax burden on residents. The Mayor estimates that the ENFC, serving four municipalities with 600 EMS calls/year, could potentially recover up to \$240,000/year.

He also reported that the NCVOA is supporting financial literacy, a requirement that High School students pass a course on personal finance skills in grades 9-12 as a graduation requirement.

He is also working to get legislation passed that would allow the management of the exploding deer herd in Planting Fields Arboretum by professionals. He estimates there is a herd of over 100 deer in the 400+ acre arboretum.

He is supporting a local bill, that would permit the use of stop sign cameras in Upper Brookville—primarily on Mill River Road. He explained that the legislature may pass a law permitting installation of the cameras as a demonstration project in Upper Brookville and perhaps a second village in Suffolk County. Whether or not there is NYS legislation, he proposed installing them with funding from the Federal Highway Department SS4A (Safe Streets) demonstration grant.

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

**RESOLVED** to approve the installation of stop sign cameras in Upper Brookville with either funding from the SS4A grant or New York State legislative approval.

### AIM Funding

The Mayor explained that the Aid and Incentives for Municipalities (AIM) program has been a critical source of unrestricted funding for essential municipal services for cities and villages across New York State. NYCOM is urging Governor Hochul to work with the leaders of the Senate and Assembly and

increase AIM funding in the 2024-25 adopted budget and provide for annual increases thereafter tied to an inflation adjustment like CPI. The AIM amounts have not increased in 15 years.

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

**RESOLVED** to support the increase of AIM funding in the Governor's 2024/25 Executive Budget. *(See Attached Exhibit A)*

### **Gas Leaf Blower Complaint**

The Mayor mentioned a resident's complaint about the incessant use of a gas leaf blower at a neighbor's property. The resident wanted the Board to consider adopting a new law limiting the operation of gas leaf blowers to one day per week with electric leaf blowers permissible on other days.

The Clerk reported raising the noise and frequency issue with the neighbor who agreed to limit the operation of the blower. Since the Village has not received any other complaints, the Board agreed that the best way to address this issue at this time is for the complainant to report the noise to the Village or Police as it occurs before any further action is taken.

### **VILLAGE HALL PROJECT**

The Deputy Mayor reported that the Village is ready to move forward with the bid process. The plans will be amended to reflect a clarification of the lower use/occupancy of the multipurpose room which should eliminate parking concerns. Asked about the future use of 24 Wolver Hollow Road, the Mayor explained that the Village intends to keep the property for future use.

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

**RESOLVED** to approve going out for bids on the new village hall construction and renovation.

### **MINUTES**

The Mayor then called for approval of the regular minutes of the Trustee meeting held on January 18, 2024.

On motion duly made and seconded, the minutes were unanimously approved.

*(See Attached Exhibit B)*

### **FINANCIAL REPORT**

#### **Bills**

The Clerk/Treasurer discussed all claim forms listed on the General Fund Check Details dated March 18, 2024 in the total sum of \$566,446.18 and April 1, 2024 totaling \$47,475.48 and reported that she reviewed the supporting invoice details and/or purchase contracts with a Trustee prior to the meeting.

The clerk noted that the invoices include a payment of \$391,846.75 to the Village of

Muttontown for the 2023/24 Q3 police protection services and a payment of \$107,393.92 to the ENFC for Q1 2024 fire protection services.

### **Temporary Laborer**

She also mentioned that Elmer Cruz, the Village's temp laborer, requested that any future part-time employment be through his LLC, Impressionnant View Inc. The Clerk said she discussed this with the Village Accountant who did not have concerns. Mr. Cruz would continue to be covered under the Village's Workers Compensation insurance policy.

Village Attorney Colgrove suggested that the Village may want to enter into a contractual agreement with Elmer's company.

The Board decided to defer a decision on this matter pending consultation between the Mayor and Village Attorney MacKinnon upon his return.

### **LOSAP**

The Mayor mentioned the need to track, pursuant to NYS General Municipal Law (GML), the annual qualification for service credits Length of Service Award Programs (LOSAP) for the volunteer fire fighters of the East Norwich Fire Company #1. LOSAP is a pension-like benefit program that facilitates the recruitment and retention of active volunteers.

Annually, the ENFD must submit a list (certified under oath) to our Board identifying all volunteers who earned at least 50 points during the preceding year. Typically, points can be earned through activities such as participation in department responses, training courses, stand-bys and sleep-ins, serving in an elected or appointed position, teaching fire prevention classes, attending certain meetings, drills and certain miscellaneous activities.

The Board is required to review the list and approve the final annual certification. Then, each qualifying volunteer on the list is awarded one year of LOSAP service credit.

The Mayor agreed to follow up with the ENFD to get a copy of their adopted LOSAP qualifying activities with the annual certified list with backup documentation.

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

**RESOLVED**, to ratify and approve the bills listed on the General Fund Check Details dated March 18, 2024 in the total sum of \$566,446.18 and April 1, 2024 totaling \$47,475.48. (*See Attached Exhibit C & D*) and

**FURTHER RESOLVED** to withhold future LOSAP payments to the ENFC pending review of the list of qualifying volunteers and the records of service credit backup.

### **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's for the month ending January and February 2024. (*See Attached Exhibit E & F*)

## **Tentative 2024/25 Budget**

The Clerk reported that both expenses and revenue on the tentative budget are projected to increase by 25%. The rise in expenses is due to the potential payment of up to \$700,000 to Old Brookville for the OBPD retiree health benefits and an 11% increase in the MUBPD police contract. *(See Attached Exhibit G)*

The Mayor explained that the Village reported a significant surplus in last year's budget that was assigned to the new Village Hall & Mill River Road projects and the estimated OBPD legacy liabilities for retirees.

The Mayor is reviewing the tentative budget and projected cash flow projections. He said the Village has been able to lower taxes each of the last seven years since he was elected Mayor. However, with the high inflationary pressures of the past two years, it may be necessary to exceed the 2% property tax cap.

## **Introduction of Proposed Local Law A-2024**

The Mayor next presented Proposed Local Law A-2024 which would allow the Village to adopt a budget for the fiscal year commencing June 1, 2024, that exceeds the tax levy limit as defined by General Municipal Law 3-C, if it becomes necessary. *(See Attached Exhibit H)*

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

**RESOLVED**, that the Clerk is authorized to take all necessary actions to schedule a public hearing on Proposed Local Law A-2024, which would authorize the Village to exceed the required property tax cap as defined by General Municipal Law 3-C, if it becomes necessary, at the April 15, 2024 meeting of the Board of Trustees.

## **CLERK'S REPORT**

### **USDOT Safe Streets and Roads for All (SS4A) Grant Proposal**

The Clerk reported that the Village applied for and was awarded a \$250,000 SS4A grant jointly with the Village of Muttontown to improve the safety of village roads. The net proceeds will be \$200,000 as the villages are required to spend \$50,000.

She presented a proposal from LiRo to implement a safety action plan and demonstration projects for the SS4A program. LiRo's fee to cover the tasks to carry out the action plan and demonstration projects totals \$130,000. The remaining \$120,000 will be used to offset construction costs associated with the demonstration projects which include installation of stop sign cameras, wet reflective pavement markings and portable speed signs. All costs will be covered entirely by the grant funds. *(See Attached Exhibit I)*

### **National Fish & Wildlife Fund Grant**

Next, she presented another locally administered grant, recommended by LiRo, for

communities that fall within the Long Island Sound watershed specifically allotted for stormwater quality improvements. This is another federal-funded grant through the National Fish and Wildlife Foundation (NFWF). If we were to identify the water quality benefits of converting the drainage ditch on Mill River Road to a piped system, we may be able to reimburse some of the costs associated with the project. There are about 40 awardees per year and they receive approximately 100 applications a year. The funding for 2024 is \$12 million.

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

**RESOLVED** to approve LiRO's SS4A grant proposal and their proposal to assist the Village with the NFWF grant application, which cost is not to exceed \$6,000.

### **Zoning Board Deposits**

The Clerk asked the Board to consider increasing the \$2,000 deposit for ZBA applications. These fees are used to cover the applicants legal, stenographer, advertising and engineering fees and often overrun the initial deposit. She agreed to research the issue including fees charged by other similar municipalities and report to the Board in April.

### **SCAR Assessment Reductions & Village Tax Refunds**

The Clerk reported that several residents were awarded assessment reductions in Small Claims Court Proceedings for the 2023/24 tax year against Nassau County. She noted that the Village was served copies of the Petitions and recommended that the Board authorize the reductions and refunds 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 residents, and to refund the appropriate Village tax to the respective owner or representative, provided the Village taxes have been paid in full and copies of applications were submitted to the Village as follows:

**Weber** – Sec.22, Blk. 23, Lot 28 assessed value of \$1,100 reduced to \$1,061 for a total refund of \$89.69.

**Lieberman** – Sec.22, Blk. J, Lot 503C assessed value of \$2,518 reduced to \$2,090 for a total refund of \$984.31.

**Barket** – Sec.24, Blk. 20, Lot 5 assessed value of \$1,584 reduced to \$1,571 for a total refund of \$29.90.

**Ahluwalia** – Sec.22, Blk. 20, Lot 15 assessed value of \$2,470 reduced to \$1,860 for a total refund of \$1,402.88.

### **Film, Triathlon and Bike Ride Permits**

The Clerk reported that she received several permit applications:

- Film permit at 1365 Planting Fields Road on April 29<sup>th</sup> – May 6<sup>th</sup>
- TOBAY Triathlon on Sunday August 25<sup>th</sup>
- Empire State Ride on Saturday June 8<sup>th</sup>

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

**RESOLVED** to approve the film, TOBAY Triathlon and Empire State Ride permits pending submission of the required insurance documents, hold harmless agreement and refundable \$500 road deposit for the removal of signage or road markings by the applicant.

### **2024 Oyster Bay Water District Hydrant Rental Contract**

The Clerk presented the Water District contract to the Board for their approval. The contract covers the rental of 17 hydrants located on Centre View Drive, Canon Lane, Glen Cove Road, Pond View Drive and West View Drive, at \$90 per hydrant for a total of \$1,530.

After discussion and on motion duly made and seconded, it was

**RESOLVED** to authorize the Mayor to sign the contract to rent 17 hydrants from the Water District at an annual rate of \$90.00 per hydrant.

*(See Attached Exhibit J)*

### **Garbage Disposal District**

The Clerk reported that Emmi Industries is completing their second year of garbage collection service for the 200+ Villagers who participate. She requested approval from the Board to again offer new participants a discount of two free months of service – one from the Village and one matched by Emmi Industries – to encourage participation in the Districts.

On motion duly made and seconded, the Board unanimously

**RESOLVED** to approve offering two free months of garbage collection service – one from the Village and one matched by Emmi Industries – to new participants who join the District in the 2024/25 fiscal year.

### **Planting Fields Arboretum**

The Clerk reported to the Board that Planting Fields Arboretum is building a maintenance facility which is replacing an old garage. She received copies of the plans as a courtesy. The State is not required to apply to the Village for a permit.

### **Oyster Bay Road Closure**

The Clerk reported that Nassau County is doing some drainage work on Oyster Bay Road starting March 25<sup>th</sup> and has requested to use Planting Field Road as a detour. They agreed to place signage prohibiting commercial vehicles from using Planting Fields Road, other than those making local deliveries. The Board had no objections.



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

### **Wolver Hollow Road Flooding Update**

The Road Commissioner reported that water continues to pour from the manhole on Wolver Hollow Road even though we haven't had rain in over a week. The County is scheduling to have test holes done to determine the source of the water. The Mayor suspects there may be a break in the pipe, perhaps caused by a heavy vehicle compressing the pipe. Water from an underground stream may be flowing steadily into the pipe system.

The Jericho Water District Supervisor reported testing the water and finding no chlorine—so it isn't coming from them. Also, none of their customers show increased usage.

The Mayor recommended to the County officials that they send a remote camera into the pipe to look for a leak.

### **Linden Lane Repaving Project**

The Clerk reported that she received three bids on the Linden Lane Road repaving job and that John McGowan & Sons had the lowest bid at \$30,000. The scope of work includes the mill and paving of 470 linear feet of roadway north of the intersection with Northern Blvd.

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

**RESOLVED** to approve John McGowan & Sons proposal to mill and pave 470 linear feet of Linden Lane at a cost of \$30,000.

### **Planting Fields Road Settlement**

The Road Commissioner reported that a section of Planting Fields Road recently settled, causing a dip in the road underneath the area where Rosemar installed a culvert to an existing drywell as part of the road reconstruction job they completed at the end of 2022. LiRo inspected the area and reported the issue to Rosemar. Following LiRo's recommendation, the road crew filled the road dip with cold patch asphalt and placed cones near the area to alert vehicles of the uneven road surface. The Deputy Mayor agreed to follow up with Rosemar to determine if they will correct the problem at no charge to the Village. He agreed to keep the Board informed.

## **BUILDING DEPARTMENT REPORT**

The Clerk/Treasurer referred to the reports submitted by the Building Department Clerk for January and February 2024 activity. (*See Attached Exhibit K & L*)

### **Crown Castle Special Use Permit**

The Clerk reported that the Village received an application from Crown Castle to upgrade the electronics in the 6 nodes they have installed in the Village. Because they are proposing to change the height of the equipment previously granted by the ZBA, they are

filing to amend their Special Use Permit.

To streamline the process, the Clerk asked if the Board would approve an exception to the Code which would have required two separate, virtually identical, applications, to allow the ZBA to accept more than three nodes per application. The Board approved a similar exception recently for an application from Extenet.

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

**RESOLVED** to approve this filing by Crown Castle of more than three nodes per Zoning Board Application if the facilities are substantially the same.

### **Certificate of Occupancy Copy Fees**

The Clerk reported that the Code currently allows the Village to charge a \$30 fee for certified copies of Certificates of Occupancy. She asked the Board to consider amending the Code and permit an additional charge for open building permits and an examination of records. The Board recommended deferring a decision on this matter until they could discuss it with the Village Attorney.

### **Open Building Permits**

The Building Clerk reported that the Mayor asked her to research a partial Amnesty Program for certain categories of residents that have open building permits. Her research revealed that there are approximately 450 open building permits recorded in our building software program.

She reported on similar programs in the Village of Muttontown, the Town of Oyster Bay and the Village of Mineola. The Board wants to pursue the concept and determined that further research is necessary including inspection staffing, permit age and the permit category subsets.

The Board asked the Clerk to start with letters to the approximately 20 residents who have open inactive permits.

### **BEAUTIFICATION COMMITTEE REPORT**

No Report

### **FIRE & STORM WATER MANAGEMENT REPORT**

The Clerk presented a proposal from West Side Engineering to assist the Village to comply with the new requirements of the New York State Department of Environmental Conservation (NYSDEC) General permit for discharges from municipal storm systems. The proposal includes the submission of a new Stormwater Management Plan (SWMP) which was last prepared in 2003. (*See Attached Exhibit M*)

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

**RESOLVED** to approve West Side Engineering SWMP proposal totaling \$5,400.

**ARCHITECTURAL REVIEW REPORT**

No Report

**LEGAL REPORT**

No Report

**PUBLIC COMMENT**

No Comment

The Mayor closed the meeting at 7:28 p.m. and on motion duly made and seconded, the Board unanimously

**RESOLVED** to enter Executive Session to discuss various matters.

**EXECUTIVE SESSION**

At 7:58 p.m., on motion duly made and seconded, the Board unanimously

**RESOLVED**, to come out of Executive Session and no further action was taken.

The Meeting was adjourned at 8:00 p.m.

The next regular meeting of the Board of Trustees is scheduled for Monday, April 15, 2024 @ 5:30 p.m.

*Signed by TL Lynch on 4/15/2024*

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Tracy Lynch  
Village Clerk