

## **REGULAR MEETING**

**DECEMBER 12, 2011**

The Board of Trustees held the Regular Meeting of December 12, 2011 at the Village Municipal Building, 167 North Main Street, Liberty New York. Mayor Winters opened the meeting with the Pledge of Allegiance.

**PRESENT:** Mayor Richard Winters, Trustee Corinne McGuire, Trustee Joan Stoddard, Trustee Shirley Lindsley and Trustee Luis Alvarez. Also Present: Langdon Chapman, Attorney for the Village and Judy Zurawski, Clerk/Treasurer.

**ALSO PRESENT:** David Ohman (Delaware Engineering), Daniel Ratner Sr., Henrich Strauch, Roger Hourihan, Donald Nichols, Jeffrey Cohen, Samatha Burger, Deborah Burger, Harold Bauman, Steven J. Green, Martin Gonzalez Sr., Mark Hess, Steven D'Agata, Scott Kinne, Renee Hook, Scott McAfee, Virginia Atkins, Devin Brust, Debra Kinne, David Bodenstein, Victoria Winchester and Alan Goodman.

**MAYOR WINTERS AND THE BOARD OF TRUSTEES PRESENTED THE FOLLOWING CERTIFICATE OF APPRECIATION TO RETIRING PLANNING BOARD CHAIRMAN DONALD NICHOLS:**

### **CERTIFICATE OF APPRECIATION**

**DONALD NICHOLS**

**WHEREAS,** Upon the occasion of your retirement from the Village of Liberty Planning Board this Certificate is awarded as a testimonial of loyal and dedicated service which you have contributed for over forty (40) years to the Village of Liberty;

**WHEREAS,** You have been a conscientious member of the Village of Liberty Planning Board and your dedicated interest and devotion to duty have had a valuable effect on the Village of Liberty;

**THEREFORE BE IT RESOLVED,** that your appointment has been held in high regard, you will be missed both professionally and as a friend and it is our wish on behalf of all the residents of this community that you enjoy a long and healthy retirement.

**MAYOR RICHARD WINTERS AND COMMANDING OFFICER SCOTT KINNE PRESENTED MERITORIOUS AWARDS TO THE FOLLOWING**

**POLICE DEPARTMENT PERSONNEL FOR THEIR HEROIC ACTIONS ON  
OCTOBER 15, 2011 WHEN THE CONVENIENCE STORE BEING BUILT ON  
NORTH MAIN STREET COLLAPSED.**

**SEARGENT SCOTT MCAFEE  
POLICE OFFICER DEVIN BRUST  
POLICE OFFICER MARTIN GONZALEZ**

Renee Hook of Mobile Medic read the following letter regarding the actions of the Police Officers on duty that day:

On Saturday October 15th, 2011 myself and my partner were dispatched to a call a building collapse in the village of Liberty. When we arrived on the scene there were only three people in addition to victims, they were Sergeant Scott McAfee, police officers Martin Gonzalez and Devin Brust. Officers Gonzalez and Brust were tending to one of the victims who was in and out of consciousness with a large bleeding head wound. After assessing the situation I felt that additional help was needed, including a helicopter. Sergeant McAfee told me to let him know what was needed and he would assure it would get done, and indeed it was done; from getting the fire department there and assuring there was a landing zone for the inbound medivac. Simultaneously the police officers assisted me and my partner in caring and removing one of the victims safely to an ambulance for emergency flight to WCMC. We cannot thank these officers enough for their help. They could have easily walked away once EMS arrived but they did not. Their presence assured all those involved, rescue personnel and victims were safely removed from the building. There is a saying, "getting down and dirty," and these officers did that right along with us, holding pressure on bleeding wounds and even using a chain saw to remove a board so we could move a victim more easily. The involvement of the officers was much appreciated. These officers are examples of competent law enforcement professionals who routinely solve crimes and catch criminals, and on this day they proved that they are caring members of our community truly ready to serve the people.

Again we Thank-you  
Renee Hook, FNP, EMT-P  
Kyle Vanvolde, EMT

The Board thanked the Police Department for the wonderful job they did.

**APPROVAL OF MINUTES:** Motion by Trustee Stoddard, seconded by Trustee McGuire and unanimously carried approving the following minutes:

**PUBLIC HEARING - NOVEMBER 14, 2011 RE: LIVE WORK UNITS**

Motion by Trustee Stoddard, seconded by Trustee McGuire and unanimously carried approving the following minutes:

**REGULAR MEETING - NOVEMBER 14, 2011**

**CORRESPONDENCE:** Mayor Winters said the Village has received the following correspondence and it is available in the Clerk's Office:

- ❖ Letter from Comptroller's Office Re: Justice Court 11/10/2011
- ❖ Letter from NYS RE: Selective Traffic Enforcement Program 11/15/2011
- ❖ Correspondence Re: Red Meat Facility 11/21/2011
- ❖ Correspondence from R. Hourihan Re: Handicapped Parking 11/29/11

**PUBLIC COMMENTS:** Mayor Winters opened the meeting to comments from the Public.

**HENRICH STRAUCH - LIBERTY CDC**

Henrich informed the Board that Trustee Stoddard, Judy Zurawski and himself continued the work on the Business Records Continuity Plan (Disaster Preparedness Assessment) and that he is at a point that the plan can be distributed to the "team" to have them fill out the necessary information and do some practice drills on the matter.

Henrich also informed the Board that the grant announcements just came out and the only one in the area to receive anything was Loomis Water so we will have to reapply in the next round.

**JEFFREY COHEN AND JONATHAN HYMAN**

Dr. Jeffrey Cohen and Jonathan Hyman informed the Board of a proposed re-zoning (Zoning Amendment) Public Hearing to be held by the Town of Liberty on Monday, December 19, 2011, which would accommodate a proposed smashing/recycling plant project just off Exit 99. Dr. Cohen said he is not against growth; however he is concerned about this type of business right off the exit/entrance to the Village. He said he would like to see a restaurant or convenience store built in that area that the public would stop at and draw people into the Village. He said he wanted to make the Village aware of this proposed Zoning Amendment as it borders Village property. He asked the Village Board to perhaps get involved and attend the Public Hearing, which he thought would carry some weight as the Town makes a decision on this change.

Helene Rothstein (Town Property Owner) said she owns the property next to the Asphalt Plant off Exit 99. She explained that the property had been in her family for sixty five (65) years and it had always been zoned Industrial Commercial and was changed to R1 when the zoning changed. She also expressed her concern about the Zoning Admendment sheduled for Monday, December 19<sup>th</sup>.

Roger Hourihan (Village Business Owner) suggested the property owners talk to the applicant about their concerns.

**ATTORNEY** Attorney Chapman discussed the following issues:

**COMMENTS:**

- ❖ Discussed the Ideal Snack purchase of the Bowling Alley and the easement that the Village has for the water/sewer lines between the properties
- ❖ Discussed the payment of the WWTP fine to the NYSDEC which was settled at \$3,000 with no strings attached.
- ❖ Said that he will be forwarding the \$10,000 settlement from Peter Belgard as payment on tax map #108-5-3.

**TREAS. TREASURER'S REPORT FROM NOVEMBER 30, 2011**  
**REPORT:**

Treasurer Zurawski gave a written report to the Board which included the following:

- ❖ Financial Comparison for General, Water, Sewer and Sanitation Fund
- ❖ List of Current Taxes outstanding, which as of 11/30/2011 is \$444,583.40
- ❖ List of Delinquent Taxes, which as of 11/30/2011 is \$482,345.90
- ❖ Starting and Ending Central Check Numbers for November.
- ❖ Starting December check is #7554
- ❖ The Status of the CDBG loans
- ❖ The Court Revenue received from the Town of Liberty for October, which is \$430.00

**TABLED UPDATE ON REVONAH HILL WATER TANK**  
**BUSINESS:**

Dave Ohman reported the following regarding the Revonah Hill Water Tank:

- Engineering report is complete and has been sent into USDA along with other pre-application materials except the Environmental Report.
- Delaware has completed the Environmental Report and will send in to USDA.

**UPDATE ON GREEN LANE SEWER ISSUE**

Dave Ohman reported the following on the Green Lane Sewer Issue:

- Contract construction work onsite is complete including new chain-link fence

- Recent heavy rain resulted in runoff upland of the work site which resulted in erosion of the newly restored area and upstream end of the retaining wall. The impact of surface water runoff was not evident during the construction work but became evident with the most recent heavy rain.
  - A site visit was conducted on 12/6/11 with Pete Parks and Tony from TAM Enterprises (site contractor) to develop a plan to mitigate future erosion.
  - Proposed work includes:
    - Installation of a 3' wide x +/- 240' long x 8" to 12" deep drainage swale on the upslope side of the access road to the former pump station to convey runoff to an area upstream of the new work area (by TAM)
    - Installation of a 12" drainage pipe under the access road with a light stone fill apron (by TAM). Village to provide pipe and pipe embedment material.
    - Furnish and install medium, stone fill rip rap on the upstream end of the new retaining wall
    - Work is scheduled to be completed by 12/31/11 – requires extending current completion date from 12/15/11 to 12/31/11.
- ❖ Proposed cost- per TAM's 12-7-11 quote – equals \$6,050. This would increase the contract cost to \$306,150.
- ❖ **We recommend that the Village resolve to authorize the Mayor to execute Change Order No. 3 in the amount of \$6,050, to TAM Enterprises, to perform/provide additional site work to mitigate surface water erosion in accordance with TAM's 12/7/11 quote and the attached drawing. This change would increase the cost of the General Contract to \$306,150 and would extend the contract completion date from 12/15/11 to 12/31/11.**
- ❖ As-built drawings are nearly complete and will be forwarded to the Village by the end of the year.

### CONSIDER CHANGE ORDER #3 - GREEN LANE SEWER IMPROVEMENT PROJECT

Project: Village of Liberty – Green Lane Sewer Improvements Project

Contractor: TAM enterprises, 384 Onion Ave, New Hampton, NY 10958

Motion by Trustee Stoddard, seconded by Trustee Lindsley and unanimously carried approving Change Order #3 on the Green Lane Sewer Improvements Project. This change order is to perform/provide additional site work to mitigate surface water erosion in accordance with TAM's 12/7/11 quote and drawing. This change would increase the cost of the General Contract to \$306,150 and would extend the contract completion date from 12/15/11 to 12/31/11.

Original Contract Sum	\$293,000
Net Change	13,150 (6,050 for Change #3)
New Contract	\$306,150

**WASTE WATER TREATMENT PROJECT- UPDATE FROM DELAWARE ENGINEERING, P.C.**

David Ohman updated the Board as to the following:

- Near Term WWTP Improvements - Oxidation Ditch Aerator Repairs and Influent Screens
  - The Engineering Report is under review by John Sansalone. No further action from DEC this month.
  - 95% of design drawings for the Near Term WWTP Improvements are done. Preparations of the specifications are expected to be done by the end of the year.
  - ITT (Xylem) has delivered design layout and sizing for, blowers, diffusers, system controls (amenable to future SCADA), mixers. The utilized horsepower per oxidation ditch should be 55 hp versus the 100 hp presently used.
  - After discussions with head works screen supplier, Duperon, it was decided that it would be in the best interest of the Village to go with another supplier. The Duperon unit would be a Beta test unit (this would be the first municipal unit in the Northeast), price was increased by \$100,000 over initial price, the manufacturer would not give any consideration on the price given that it would be a Beta test unit and the manufacturer wanted two years of data access to the unit.
    - Screen specifications are being prepared for a Hydro-Dyne perforated plate unit. Prior to arriving at this decision both Delaware Engineering and operators of the Village wastewater plant interviewed chief operator, Bruce Jones of Ambler, PA on his experience with Hydro-Dyne. After receiving very positive reviews on their Hydro-Dyne unit the decision was made.
- Plans/Specs to DEC : January 2012
- DEC Review January 2012
- Finalize Design/Bid/Award (Ongoing) Feb-March 2012
- Construction: April – June 2012
- Engineering Report
  - Working on comprehensive plant evaluation
  - Have been addressing most pressing Village needs ahead of report activities [e.g., Chemical Bulk Storage issues, UV disinfection [for Red Meat plant issues] CDBG application technical info, Oxidation ditch aerator repairs] which will be integrated into the report this summer

### **IDEAL SNACKS – UPDATE FROM DELAWARE ENGINEERING**

David Ohman reported the following on Ideal Snacks:

- Conducted 24 hour composite sampling over 2 consecutive days (11/29 to 11/30 & 11/30 to 12/1) at the six sites the Village had agreed upon with Mr. Glenn Smith, PE (representing Ideal)
- Conducted dye test of main sewer line to determine if the Ideal line was tied in to it
  - result was that upstream from Ideal Snacks the only waste source is the Budget Inn
  - no evidence of dye was seen at the Elm Street pump station.
  - operators did note evidence of the dye at the headwork of the wastewater plant.
- Will summarize data once it comes in from the lab and provide results to the Village and Ideal Snacks

### **RED MEAT FACILITY – UPDATE FROM DELAWARE ENGINEERING**

David Ohman updated the Board on the Red Meat Facility as follows:

- Need to ultimately understand who will be at Red Meat plant and meet with them to discuss their planned activities, pretreatment responsibilities, flows and loads, etc. – will be less expensive to treat their flow only
- Will have an impact on the WWTP – especially the new aeration system in the Oxidation Ditches so it cannot be ignored.

### **CONSIDER ELIMINATION OF DAM – LETTER FROM DEC**

The Board discussed the letter received from the NYSDEC regarding the dam and the regulations of maintaining a dam.

David Ohman said the regulations can be found right on the NYSDEC's website.

Mayor Winters asked Clerk/Treasurer Judy Zurawski to print them out and give them to Kenneth Hessinger.

### **CONSIDER LOCAL LAW FOR TAX CAP**

The Board said they would hold this matter on file and make a decision in the new year if they want to consider a local law on the tax cap.

### **CONSIDER REQUEST FROM RSS REALTY – REFUNDS**

The Board tabled this matter until the end of the meeting so they could seek attorney client advice.

### **CONSIDER UTILITY PROPOSAL FROM OWEN MCKANE**

Attorney Chapman said he was unsure how the contract was to be interpreted. He explained that it appears to be on a month to month basis but they would lock in the price for twenty-four (24) months.

The Board asked if Owen could come to the January meeting so they matter could be clarified and resolved.

### **NEW BUSINESS:**

### **CONSIDER SEWER CREDIT REQUEST FOR 40 LAKE STREET**

Motion by Trustee Stoddard, seconded by Trustee Alvarez and unanimously carried approving a sewer credit of \$2,049.76 (352,800 Gallons) on Account #3-6900 located at 40 Lake Street. This is at the recommendation of Kenneth Hessinger due to leak that occurred in the house on May 20, 2011.

### **CONSIDER PARTNERS IN SAFETY CONTRACT FOR 2012**

Motion by Trustee Stoddard, seconded by Trustee McGuire and unanimously carried approving the 2012 DOT Drug and Alcohol Testing Program contract with Partners in Safety of Middletown, New York and authorizing Mayor Winters to execute said contract.

### **CONSIDER REQUEST FROM SHOE BOX RE: CDBG FUNDS**

Motion by Trustee Alvarez, seconded by Trustee Lindsley and unanimously carried approving approving the release of the additional \$10,000 community development block grant loan that was approved for the Shoe Box located on Sullivan Avenue.

Trustee Stoddard said the new store has reached its goals and is in need of additional inventory.

Henrich Strauch said he would combine the two releases and give them new paperwork as well as a new loan schedule.

### **CONSIDER APPOINTMENT OF PLANNING BOARD CHAIRMAN**

### **RESOL.# 37-2011**

Motion by Trustee Stoddard, seconded by Trustee Lindsley and unanimously carried approving Resolution #37-2011.

**RESOLVED**, the Board of Trustees of the Village of Liberty approves the following appointment:

**PLANNING BOARD – STEVEN GREEN AS CHAIRMAN – to fill the unexpired term of Donald Nichols appointed until April 1, 2016**



The Board said they would be seeking an additional person for the Board to take Steven Greens place on the Board as he steps into his new role as Chairman.

**CONSIDER EVENT PERMIT – SANTA EXPRESS 12/17/11**

Motion by Trustee Stoddard, seconded by Trustee Lindsley and unanimously carried approving an ***Event Permit*** for a ***“Santa Express”*** on ***Saturday, December 17, 2011 at 6:00 p.m.*** The parade route will be Lake Street to Main Street, with a slow procession of a single float.

**CONSIDER BUDGET MODIFICATION FOR CODE ENFORCEMENT**

Motion by Trustee Stoddard, seconded by Trustee McGuire and unanimously carried approving the following budget modification:

- Increase Expenditure Code A1620.2 (Code Enforcement – Equipment) 129.00
  - Decrease Expenditure Code A1620.414 (Code Enforcement - Office Materials) 129.00
- Reason: Needed New Printer

**CONSIDER ENGAGEMENT LETTER FOR COOPER, NIEMANN AND CO.**

**RESOL. #** Motion by Trustee Stoddard, seconded by Trustee Lindsley and  
**38-2011:** unanimously carried approving Resolution #38-2011.

**WHEREAS**, the Village of Liberty is desirous of continuing with Cooper, Niemann and Co. for the purpose of auditing and preparing the financial statements for the village;

**WHEREAS**, Cooper, Niemann and Co. has provided an Engagement Letter for the fiscal years ending May 31, 2012, May 31, 2013 and May 31, 2014, with their fees as follows:

May 31, 2012 - \$16,800  
May 31, 2013 - \$17,100  
May 31, 2013 - \$17,400

**NOW THEREFORE BE IT RESOLVED**, the Village hereby retains the services of Cooper, Niemann and Co. and authorizes Mayor Winter to sign said Agreement (dated December 7, 2011).

**PUBLIC** Mayor Winters opened the meeting to comments from the Public.  
**COMMENT:**

Daniel Ratner Sr. (West Lake Street) informed the Board that he did not think they would be able to get the eighteen Christmas wreaths up as the company sent the wrong size brackets.

Mayor Winters said DPW employee Keith Smith is very good at making things like that and may be able to assist them.

David Bodenstein (Mike Pries Insurance) discussed the MVP Health insurance the Village is looking into and asked the Board if they may have any questions he could address.

The Board said there had been some talk of a grievance filed by the union employees in the Town of Callicoon regarding the insurance coverage.

David said he was not aware of it but would check into the matter.

**TRUSTEE  
REPORTS:**

Mayor Winters opened the meeting to comments from the Board.

Trustee Alvarez said he had met with the Mayor and Commanding Officer Scott Kinne to go over some issues.

Trustee Stoddard said while working on the Business Records Continuity Plan a question arose as to the backup systems (if any) that the Water, WWTP and Code Enforcement Officer uses.

Mayor Winters said he thought they had a backup system.

Trustee McGuire spoke with great enthusiasm of the things that are happening in Liberty. She said the Village is working very hard on the taxes and making people feel safe on Main Street and other areas with extra Police presence. She said Liberty has three great entrances off the highway and she is exciting to see the good things happening.

Trustee Lindsley said Krug's was very happy to have their insurance matter resolved and said they received their check.

Trustee Lindsley also said the Police had a wonderful holiday party with many people in attendance.

Mayor Winters wished everyone Happy Holidays.

**BILLS FOR** Motion by Trustee Stoddard, seconded by Trustee McGuire and  
**PAYMENT:** unanimously carried approving Voucher #12-574 to Voucher #12-669 in  
The amount of \$770,312.59, with the exception of Voucher #12-635 payable  
to RSS Realty in the amount of \$133,145.56.

### Post Audit Vouchers

Motion by Trustee Stoddard, seconded by Trustee McGuire and unanimously carried approving post audit Voucher #12-566 to Voucher #12-573 in the amount of \$305,523.43

**EXECUTIVE SESSION:** Motion by Trustee Stoddard, seconded by Trustee McGuire and unanimously carried to go into Executive Session at 9:07 p.m. to receive Attorney-client advice regarding RSS Realty tax certiorari, CSEA negotiations and the discussion of the employment history of a particular employee in the Police Department.

Motion by Trustee Stoddard, seconded by Trustee Lindsley and unanimously carried to come out of Executive Session at 10:00 p.m.

### CONSIDER REQUEST FROM RSS REALTY – REFUNDS

**RESOL. # 39-2011:** Motion by Trustee Stoddard, seconded by Trustee Alvarez and unanimously carried approving Resolution #39-2011.

**WHEREAS**, the Village Board of the Village of Liberty has reviewed the ORDERS signed by the Honorable Robert Sackett dated January 25, 2011 for Index Numbers 2827-09 and 2826-09 (Supreme Court, Sullivan County); and

**WHEREAS**, Judge Sackett ordered refunds for assessment years 2009 for the 2009/10 School Tax; 2010 Town and County Tax) and assessment roll 2010 for the 2010/2011 School Tax; and 2011 Town and County taxes; and whereas, those assessment rolls correspond to the 2010/2011 Village Tax year (the 2009 assessment roll) and the 2011/2012 Village tax year (the 2010 assessment roll); now therefore be it

**RESOLVED**, that the Village of Liberty Board determines that based on the tax refund application of S&S Waverly LLC (C/) The Backer Group, 158 North 4<sup>th</sup> Street, Brooklyn, NY 11211) that the taxpayer is due a refund of \$67,359.01 for the 2009 assessment roll (which corresponds with the 2010/2011 Village Tax), and that no other refund is due because the 2010 assessment roll had its 2011/2012 Village tax properly calculated; and be it further

**RESOLVED**, that the Village Clerk/Treasurer is authorized to refund \$67,359.01 in satisfaction of the Court Order and said amount shall be payable to “Newberg Law Offices, as attorneys for Petitioner.”

**ADJOURN:** Motion by Trustee Stoddard, seconded by Trustee McGuire and unanimously carried to adjourn the meeting.

**THE MEETING WAS ADJOURNED AT 10:05 P.M.**

**RESPECTFULLY SUBMITTED,**

**JUDY ZURAWSKI, CLERK/TREASURER**



