

MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK HELD ON MONDAY, NOVEMBER 8, 2010 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT:	Deputy Mayor	Louis N. Santoro
	Trustees	Toni Pergola Ryan John M. Hofstetter Marianne V. Ybarra
	Village Manager	Richard Slingerland
	Assistant Village Manager	Daniel Sarnoff
	Village Attorney	Christie McEvoy-Derrico
	Clerk- Treasurer	Agostino A. Fusco
ABSENT:	Mayor	Norman S. Rosenblum

Deputy Mayor Santoro announced that Mayor Rosenblum is out of the country on business and therefore he will be conducting the meeting.

The Village Attorney arrived at 7:35 p.m.

**I. COMMUNICATION TO THE BOARD**

Dr. Charles Morelli of Beach Avenue appeared on the Pine Street issue. Dr. Morelli wanted to discuss the temporary Certificate of Occupancy issued on 12/16/02. In August of 2009, there were a series of letters from the Village Attorney and Building Inspector regarding the temporary C of O. Dr. Morelli read from a letter written to the developer by Mr. Winter, Building Inspector stating that if steps were not taken to remedy the drainage issues to the Village's satisfaction, the temporary C of O would be revoked. Dr. Morelli also had a copy of a letter from Mr. Slingerland to the developer echoing the same sentiment. Shortly thereafter, the Village Attorney stated in a letter written to the attorney for the developer that she would refrain from responding to each and every baseless claim because the facts of this case are so clear. There was another letter sent to the attorney for the developer in March 2010 by Mr. Winter stating that the developer was issued a temporary Certificate of Occupancy and if all improvements are not made he will be forced to revoke the C of O. Dr. Morelli believes that the temporary C of O was issued in error as there was no end date. Dr. Morelli read from a document he printed on temporary Certificates of Occupancy from the State's Department of Code Enforcement that states that the temporary C of O must be limited to a specific period of time and that the developer must be required to bring the structure into compliance with the code during that time. A local government's code enforcement department must provide that a temporary C of O issued in error (and he believes that this one was as it had no end date), shall be suspended or revoked. He asked why the Temporary

Certificate of Occupancy cannot be revoked at the same time a new Temporary Certificate of Occupancy with an end date is issued.

Ms. Derrico stated that she cannot speak for Mr. Winter and that the Board of Trustees has been advised of the issues and they will take the steps they feel necessary. She also stated that this sitting Board cannot be held responsible for past Board's inactivity and that this Board has to weigh all the facts and make a determination in conjunction with the Building Inspector.

Dr. Morelli asked what the Board is going to do about this. Trustee Santoro stated that the Board should meet with the Building Inspector and Village Attorney to discuss this issue. Trustee Ryan stated that she feels this should happen at the next work session and that Dr. Morelli should be present. She also stated that she does not know all of the options. Trustee Hofstetter asked that at that meeting the Board be informed if pulling a temporary certificate of occupancy has been done in the past. Ms. Derrico reminded the Board that no matter what course of action they choose, there will most likely be litigation.

Mr. Stuart Tiekert of Beach Avenue appeared. He came before the Board two or three meetings ago as he was concerned that the Village Engineer is rewriting Village law regarding Pine Street as Mr. Furey has claimed that the Planning Board resolution was changed by a single member after the fact. The first time Mr. Tiekert brought this up the Board promised that it would be taken up and the second time he brought it up, the Mayor promised him that it would be discussed at the next work session. Trustee Santoro informed Mr. Tiekert that this matter was not on the work session agenda and not discussed. He asked why this has not been discussed by the Board of Trustees and as the Planning Board is about to issue a resolution on Mamaroneck Beach and Yacht, he believes that the resolutions should stand for something and should not be changed randomly. He believes that this is an integral part of the Pine Street situation and if the Board meets on Pine Street, this should be included. Ms. Derrico assured Mr. Tiekert that this has not been ignored and that the Board has discussed this issue at almost every work session since she has been Village Attorney. Mr. Tiekert believes that the Village Attorney should be looking at the comment by Mr. Furey as he believes that this is a legal issue. Ms. Derrico stated that Mr. Furey can make comments and that the Board can or cannot accept these opinions. Trustee Santoro again stated that he will ask that this issue be added to the next work session agenda.

Ms. Sue McCrory of The Crescent appeared. Ms. McCrory asked for more due diligence and fiduciary oversight by the Board on the MBYC settlement. Ms. McCrory looked more closely at the settlement after receiving an unsolicited email by the Mayor explaining why the Board approved the settlement. She is shocked

that the settlement has the Village giving \$825,000 to a corporate entity that does not exist. She has checked and could not find any evidence of their existence and also received confirmation from the Department of State that this entity does not exist. She is unable to confirm the existence of the other two entities listed as doing business as the Mamaroneck Beach and Yacht Club. The final curiosity is that the owner of the property is nowhere named in the settlement. She also checked the IRS form 990 for the not for profit Mamaroneck Beach & Yacht Club, Inc. and this club reported revenues and expenses of \$116,000 with no employees, no staff, no bill for heat and light.

**2. APPROVAL OF MINUTES**

**A. Minutes of BOT Regular Meeting of October 12, 2010 (Including Public Hearings)**

These minutes were tabled to the next meeting as the pages were cut off at the bottom.

**3. AUDIT OF BILLS**

Trustee Ryan and Trustee Hofstetter had a question about flags being paid for in two different departments for the same number of flags and at the same cost. Trustee Ryan also had a question on the water main charge at 160 Mt. Pleasant Avenue. Trustee Santoro informed her that it should read 169 Mt. Pleasant and that was to change out the water line coming into the building. In answer to the flag question, Mr. Slingerland will double check to make sure that they are not duplicates; however, he believes that this was a large order that was split between departments.

On motion of Trustee Ryan, seconded by Trustee Hofstetter:

RESOLVED that the Abstract of Audited Vouchers listed below dated November 8, 2010, copy being filed with the Village Clerk, be and the same are hereby ordered paid:

General Fund	\$ 316,729.93
Capital Fund	5,884.60
Mamaroneck Health Center	146.00
Expendable Trust	90.85
Agency Fund	<u>12,391.25</u>
	\$ 335,391.63

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

**4. OLD BUSINESS**

5. NEW BUSINESS

- A. Resolution to Adopt the Suggested Tree List as Proposed by the Tree Committee

RESOLUTION ADOPTING THE SUGGESTED TREE LIST  
AS PROPOSED BY THE TREE COMMITTEE

WHEREAS, the Village of Mamaroneck Tree Committee has been working on a project to update the list of suggested trees that are recommended to be planted in the Village of Mamaroneck in Parks and along public rights-of-way owned by the Village, or owned by other governmental agencies; and

WHEREAS, the Village of Mamaroneck Tree Committee prepared and vetted a list of suggested trees for planting on Village property in parks and along roads; and

WHEREAS, the Village of Mamaroneck Tree Committee consulted with Cornell University's Cornell Cooperative Extension and made some adjustments to the list to reflect their comments and input on stress- and salt-resistant street trees.

On motion of Trustee Ryan, seconded by Trustee Ybarra:

NOW THEREFORE, BE IT RESOLVED, by the Board of Trustees of the Village of Mamaroneck hereby adopts the Village of Mamaroneck Tree Committee's Suggested list of Trees, with the understanding that trees on the Suggested Tree List are priority trees, and that exceptions may be made on a case-by-case basis to allow special requests or considerations, so long as the requested tree is included under the plant hardiness zone that applies to our region; and

BE IT FURTHER RESOLVED, that the appropriate village staff and officials are hereby directed to take the necessary and appropriate actions to implement this resolution, including notification to the Village of Mamaroneck Tree Committee and the Village of Mamaroneck Department of Public Works about the enactment of this policy.

Ayes: Ybarra, Hofstetter, Ryan, Santoro  
Nays: None  
Absent: Rosenblum

B. Resolution to Limit the Planting of Trees to Kwanzan Cherry Trees in the Harbor Island Cherry Grove

**RESOLUTION TO LIMIT THE PLANTING OF TREES  
IN THE HARBOR ISLAND STAND OF CHERRY TREES  
TO KWANZAN CHERRY TREES**

WHEREAS, the Village of Mamaroneck Tree Committee at their September 7, 2010 meeting discussed limiting the planting of trees to only Kwanzan Cherry Trees that may be planted in the stand of Cherry Trees at Harbor Island Park; and

WHEREAS, upon consideration the Tree Committee unanimously adopted this recommendation, based on the rationale that the Village should continue to support the stand of cherry trees as one of the defining aspects of Harbor Island Park; and

WHEREAS, this area of cherry trees extends from Orienta Avenue to the Westchester County Sewage Treatment Plant.

On motion of Trustee Hofstetter, seconded by Trustee Ryan:

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of the Village of Mamaroneck hereby supports and adopts the recommendation of the Tree Committee to preserve, and only plant Kwanzan Cherry Trees in the stand of cherry trees between Orienta Avenue and the Westchester County Sewage Treatment Plant; and

BE IT FURTHER RESOLVED, that the Village will look into the possibility and expense of relocating any other non-cherry trees to other locations within the park, so as to restore the consistency of this stand of cherry trees.

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

C. Resolution Adopting SEQRA Findings and Scheduling Public Hearing on PLL AC-2010

On motion of Trustee Ryan, seconded by Trustee Ybarra:

RESOLVED that a Public Hearing on Proposed Local Law AC-2010 be and is hereby scheduled for November 22, 2010.

BE IT FURTHER RESOLVED that the Board of Trustees has determined itself to be Lead Agency as it is the only board/agency who can take this action and this matter has been determined to be an **Unlisted Action** and the Board of Trustees has reviewed a short/long form EAF and determined that there are no negative environmental impacts.

Ayes: Ybarra, Hofstetter, Ryan, Santoro  
 Nays: None  
 Absent: Rosenblum

D. Resolution Declaring Surplus Vehicles & Authorization of their Sale & Disposal by Auction

**RESOLUTION AUTHORIZING THE SALE OF SURPLUS VEHICLES/EQUIPMENT**

WHEREAS, certain Village vehicles and equipment have been recommended to be declared as surplus or they have exceeded their useful life and purpose; and

WHEREAS, the Village is desirous of selling these vehicles and equipment at public auction.

On motion of Trustee Hofstetter, seconded by Trustee Ryan:

NOW THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Mamaroneck hereby declare the following vehicles as surplus Village property and authorizes the disposal of the following vehicles and equipment by public sale:

YEAR/MAKE	VEHICLE ID #	MILEAGE	ASSIGNED TO	DISPOSITION
2000 Ford	2FAFP71W7YX206808	77,635	Traffic	to be sold
2000 Ford	2FAFP71W0YX185364	80,233	Bldg. Dept.	to be sold
2000 Ford	2FAFP71W2YX185365	84,793	PD	to be sold
1999 Ford	2FAFP71W3XX208344	79,753	PD	to be sold
1995 GMC	1GKFK16KXSJ741180	142,056	Fire Dept.	to be sold
1994 Ford	1FDJE37M5RHB62877	183,045	KEEPS	to be sold
1996 GO-4	2W9MPK631TP044169		PEO	to be sold
1995 GO-4	2W9MPK631RP044679		PEO	to be sold
Viking Stove	6 Burner – good cond		Fire Dept.	to be sold

BE IT FURTHER RESOLVED that the disposal of these vehicles and equipment is authorized in compliance with the requirements of law, and the Village Manager and all appropriate officials are authorized to take the actions necessary to dispose of these vehicles.

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

E. Resolution Authorizing the Award of Contract 2010-08, DPW Dump/Plow/Salt Truck

**RESOLUTION RE:**

**AWARDING CONTRACT 2010-08 – FURNISH & DELIVER ONE (1) PLOW/SALT/DUMP TRUCK**

WHEREAS, an item identified in the FY 2010/11 Capital Budget & Plan is the purchase of a new plow/salt/dump truck and accordingly, staff prepared bids and specifications for Contract 2010-08 – Furnish & Deliver One (1) Plow/Salt/Dump truck; and

WHEREAS, the Village Manager reports that he publicly advertised for the receipt of bids and sent notice of such contract to eight (8) vendors; and

WHEREAS, on the bid opening date, two (2) sealed bids were received with the lowest responsible bid received from Gabrielli Mack Sales & Service, 333 Conner Street, Bronx NY 11716 in the amount of \$196,400; and

WHEREAS, a lower-cost bid in the amount of \$194,887 was submitted by Trius, Inc., equipment and truck sales of Bohemia, NY, but this bid did not meet all specifications, in particular the truck body was one foot or 10% shorter than specified, many components of the truck chassis did not meet specifications, and the snow plow and plow frame bid are not as specified and are products that have been problematic for the village in the past; and

WHEREAS, the Village has previously purchased heavy duty vehicles through Gabrielli and has been satisfied with the quality of the vehicles provided.

On motion of Trustee Ybarra, seconded by Trustee Ryan:

RESOLVED, that Contract # 2010-08 – Furnish and Deliver One (1) Dump/Plow/Salt Truck be awarded to Gabrielli Mack Sales and Service (Gabrielli), 333 Conner Street, Bronx, NY 11716, in the amount of \$196,400; and be it further

RESOLVED, that the Village Manager is herein authorized to execute Contract # 2010-08 on behalf of the Village of Mamaroneck with said Gabrielli Truck Service; and be it further

RESOLVED, that all costs associated with this purchase be charged to Fiscal Year 2010/11 Capital Budget Account #H11.5110; and be it further

RESOLVED, that the funding in the above amount be provided by the adoption of a future bond resolution.

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

F. Formal Acceptance of Village Justice Court Financial Statement

**Formal Acceptance of Village Justice Court Financial Statement**

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires village justices annually provide their court records and dockets to their respective auditing boards and that such records then be examined and record of that examination be entered into the minutes of the Board's proceedings; and

WHEREAS, a copy of the Village Justice Court's Financial Statement for fiscal year June 1, 2009 through May 31, 2010 was submitted to the Board.

WHEREAS, A copy of this audit along with a resolution acknowledging that the required examination or audit was conducted needs to be sent to the State of New York Unified Court System.

On motion of Trustee Ryan, seconded by Trustee Ybarra:



RESOLVED that an audit of the Village Justice Court of the Village of Mamaroneck has been conducted for fiscal year June 1, 2009 – May 31, 2010.

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

6. **REPORT FROM VILLAGE MANAGER**

A. File for Record – Gabrielli Truck Sales LTD, Contract 2010-05 Furnish & Deliver One or More Sanitation Vehicle

Mr. Slingerland stated that this contract has been filed for the record with the Clerk Treasurer's office.

B. File for Record – License Agreement with Christopher & Suzanne Fisher of 132 Frank Avenue

Mr. Slingerland stated that this agreement has been filed for the record with the Clerk Treasurer's office.

C. File for Record – Agreement with BFJ Planning for Comprehensive Plan Revisions

Mr. Slingerland stated that this agreement has been filed for the record with the Clerk Treasurer's office.

D. File for Record – Official Harbor Management Plan Map

Mr. Slingerland informed the Board that this map was just recovered after missing for quite some time; however, there are errors in it. While the Department of State has filed this map, it does need to be updated, which Mr. Slingerland expects will be done as part of the LWRP update process.

7. **FLOOD MITIGATION REPORT**

Mr. Slingerland reported that the State and Federal Government rejected the application for the cost to remove the Road to Nowhere as it wouldn't solve flooding in the immediate vicinity, it would only reduce the flooding. A replacement generator for the EMS building, an emergency notification system for the emergency broadcasting of information and equipment to make buildings more flood safe

by the installation of something like flood gates at 313 Fayette Avenue (the DPW garage) and the Volunteer Fire House are being worked on.

8. REPORT FROM CLERK-TREASURER

A. Library Vote

Mr. Fusco announced that the vote on the Library's budget and Board of Trustees will be held on December 7, 2010.

9. REPORT FROM VILLAGE ATTORNEY

A. Filing of Local Law 22-2010

Ms. Derrico reported that this Local Law has been filed with the State on October 18, 2010.

Ms. Derrico requested an Executive Session to discuss ongoing litigation; particularly the Guy Massi and the Nautilus Lane beach sand violation matters.

10. MINUTES – COMMISSIONS, BOARDS, COMMITTEES

A. Committee for the Environment – September 21, 2010

On motion of Trustee Hofstetter, seconded by Trustee Ybarra:

RESOLVED that the September 21, 2010 minutes of the Committee for the Environment be and are hereby approved:

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

B. Board of Architectural Review– September 7, 2010

On motion of Trustee Hofstetter, seconded by Trustee Ybarra:

RESOLVED that the September 7, 2010 minutes of the BAR be and are hereby approved:

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

C. Planning Board – October 14, 2010

On motion of Trustee Hofstetter, seconded by Trustee Ybarra:

RESOLVED that the October 14, 2010 minutes of the Planning Board be and are hereby approved:

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

D. Traffic Commission - September 14, 2010

On motion of Trustee Hofstetter, seconded by Trustee Ybarra:

RESOLVED that the September 14, 2010 minutes of the Traffic Commission be and are hereby approved:

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

Updates from the Board

Trustee Santoro announced that on December 28 the Recreation Department will be holding their annual Museum of Natural History trip for any resident interested, the Tree Lighting Ceremony will be held on December 5 and Kung Fu for Kids is now available through Recreation. Trustee Santoro reminded residents of the upcoming Turkey Trot which will be held on November 20. On November 10 there will be a service at Kemper Memorial for Veterans Day as well as a service at the American Legion on November 11.

On motion of Trustee Ryan, seconded by Trustee Ybarra:

RESOLVED that the Board of Trustees convene to Executive Session to discuss ongoing litigation on the subjects noted by the Village Attorney.

Ayes: Ybarra, Hofstetter, Ryan, Santoro

Nays: None

Absent: Rosenblum

ADJOURNMENT

There being no further business to come before the Board, on motion duly made and seconded, the meeting was adjourned.

PREPARED BY:  
SALLY J. ROBERTS,  
SECRETARY

RESPECTFULLY SUBMITTED BY:  
AGOSTINO A. FUSCO,  
CLERK-TREASURER

