

**MEETING HELD FEBRUARY 16, 2011**

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Wednesday, February 16, 2011 at 7:00 P.M., in the Village Hall Conference Room, 222 Grace Church Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees Bart Didden, Saverio Terenzi, Joseph Kenner, John Branca, Luis Marino and Daniel Brakewood.

Also present were Village Manager, Christopher Russo; Village Attorney, Anthony Cerreto; Village Clerk, Joan Mancuso and Assistant to the Village Manager, Elisa Sciarabba.

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On motion of Trustee Brakewood, seconded by Trustee Marino, the meeting was duly opened at 7:03 p.m.

ROLL CALL

AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino, Brakewood  
and Mayor Pilla  
NOES: None  
ABSENT: None

Mayor Pilla stated that the agenda listed that the first item of business would be an executive session with Special Counsel regarding litigation in the matter of the Department of Justice vs. the Village of Port Chester, then a discussion on this matter and a resolution to consider retaining the firm of Jones Day for an appeal. He said that there are also resolutions regarding public works equipment and a correspondence. The Mayor said that he would start the meeting with the correspondence and the two public works resolutions before taken a motion for the executive session regarding the Department of Justice litigation.

The Mayor said that the correspondence is from Matthew Frank, retired Detective of the Mount Vernon Police Department requesting permission for a motorcycle ride and car show on July 10, 2011. He said that Trustee Branca requested that this item be on this meeting's agenda so gave the floor to him to speak on this matter.

Trustee Branca spoke about Mr. Frank's request and the foundation that this would benefit injured police officers and their families. He said that the request is for Abendroth Avenue to be close between Adee Street and Westchester Avenue along with

Feb. 16, '11 the Marina Parking Lot on July 10, 2011 between 12 noon and 6:00 p.m. for a motorcycle ride and car show. He said that this is a worthy cause and asked that the Board proceed with this request.

The Board further discussed this request and other requests like this. They referred this matter to staff for their review with the necessary departments and if required to come back to the Board for final approval.

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Mayor Pilla said that the next item to be considered is a resolution to award the bid to JESCO Inc., for a 2011 Backhoe in the amount of \$85,500.00.

Trustee Terenzi made a motion for discussion, Trustee Brakewood seconded the motion.

Christopher Russo, the Village Manager briefed the Board on this bid and the recommendation to award it to the low bidder.

Trustee Didden asked if Mr. Russo and staff considered a 2008 model from this same company at a saving of \$20,000.00

Mr. Russo said that option was reviewed and it was determined that the new model with a three year warranty was the best option for the Village.

The Board discussed this purchase further with Mr. Russo and noted the need for this piece of equipment.

**BID AWARD – 2011 Backhoe**

On motion of TRUSTEE TERENZI, seconded by TRUSTEE BRAKEWOOD, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Village advertised for bids from various companies for the purchase of a 2011 Backhoe for the Department of Public Works; and

WHEREAS, on February 14, 2011, four bids were received and upon opening the bids it was determined that JESCO, Inc. was the lowest bidder with a total bid price of \$85,500 for a 2011 John Deere Backhoe 410J. Now, therefore be it

RESOLVED, that the Village Manager is authorized to purchase the 2011 Backhoe from JESCO, Inc., 118 St. Nicholas Avenue, South Plainfield, NJ 07080 for a total price of \$85,500; and be it further

RESOLVED, that the Board of Trustees hereby authorizes the Village Treasurer to modify the General and Capital Fund budgets as follows:

**GENERAL FUND:**

Transfer from:

Central Garage 001-1640-0431	Parts for Vehicle Equipment	\$52,000
Contingency 001-1990-0400	Contingency	\$25,000

NYS Employees  
001-9000-0801 State Retirement \$10,000

Transfer to:  
Transfer to Capital  
001-9550-0900 Transfer to Capital Fund \$87,000

CAPITAL FUND:  
DPW Vehicles FY 2010-11  
Appropriation:  
005-5110-0203-2010-0116 Various DPW Vehicles \$87,000

Revenues:  
Transfer from General Fund  
005-0005-5031-2010-0116 Transfer from Gen Fund \$87,000

ROLL CALL  
AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino, Brakewood  
and Mayor Pilla  
NOES: None  
ABSENT: None

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PURCHASE OF BOBCAT SKID-STEER LOADER

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE MARINO, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Village Manager is hereby authorized to purchase a S185 Bobcat Skid-Steer Loader in the amount of \$22,227.00 from Bobcat of Westchester, 532 North State Road, Briarcliff Manor, NY 10510, New York State Contract Number PC64705, Award Number 21635-PF; and be it further

RESOLVED, that the Board of Trustees hereby authorizes the Village Treasurer to modify the General & Capital Fund budgets as follows:

GENERAL FUND:  
Transfer from:  
NYS Retirement  
001-9000-0801 State Retirement \$23,000

Transfer to:  
Transfer to Capital Fund  
001-9550-0900 Transfer to Capital Fund \$23,000

CAPITAL Fund  
Increase Project from \$87,000 to \$110,000  
DPW Vehicles FY2010-11  
Appropriations:  
5-5110-203-2010-116 Various DPW Vehicles \$23,000

Revenues:  
Transfer from General Fund  
5-0005-5031-2010-0116 Transfer from General Fund \$23,000

ROLL CALL  
AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino, Brakewood  
and Mayor Pilla  
NOES: None  
ABSENT: None

Mayor Pilla asked for a motion for an executive session with Special Counsels, Anthony Piscionere and Aldo Vitagliano regarding litigation in the matter of the Department of Justice vs. the Village of Port Chester along with the Village Manager, the Village Attorney and the Assistant to the Village Manager.

At 7:27 p.m., Trustee Didden made a motion for the executive session, Trustee Branca seconded the motion.

ROLL CALL

AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino and Mayor Pilla  
NOES: Trustee Brakewood  
ABSENT: None

There was no action taken in executive session.

At 8:44 p.m., on motion of Trustee Marino, seconded by Trustee Didden, the executive session was closed and the public portion was re-opened.

ROLL CALL

AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino, Brakewood and Mayor Pilla  
NOES: None  
ABSENT: None

Mayor Pilla said that we have one remaining resolution regarding retaining the firm of Jones Day and a quick discussion on the public input approach and he suggested that the resolution be done first. The Mayor spoke about the February 7<sup>th</sup> meeting that this matter was on which had been tabled but thought it was not tabled to this special meeting date but to a vote at a televised meeting. He said nonetheless it has come back and will ask for a motion for discussion on this resolution.

Trustee Marino made a motion for discussion on the resolution to retain the firm of Jones Day with regard to the appeal of the Final Judgment in the matter of United States v. the Village of Port Chester, Trustee Branca seconded the motion for discussion.

The Mayor asked if the Board would like to discuss this matter before calling for a motion to table the resolution.

Trustee Terenzi asked that the motion to table would be for a date certain on February 22<sup>nd</sup> if that was correct.

Mayor Pilla said that he would like to speak to the Board regarding the date.

Trustee Terenzi said that if the Mayor wants to hire out the County Center that is fine for the 22<sup>nd</sup> so the Board can vote on retaining this firm to appeal the DOJ matter. He said that this was on for the last meeting and now the question is to push it out to the televised meeting of next week.

Trustee Brakewood noted that next week is the school holiday vacation so a lot of people including himself may not be available on February 22<sup>nd</sup> so if the Board is going to table this would ask that it matter be tabled to the first meeting in March.

Trustee Terenzi said that he would like to get this issue out of the way and based on our attorneys' conversations that the judgment is coming down in a week or two if not sooner.

Trustee Branca stated that there seems to be a sense of urgency at this point.

Trustee Brakewood said that either way the Board knows where he stands on this issue.

Trustee Branca said that we have had the discussion on the US District Court ruling regarding the violation of Section 2 of the Voting Rights Act if we act on the litigation resolution then there is no reason for discussion on the 22<sup>nd</sup> so he would make a motion to move it to the 22<sup>nd</sup>.

Mayor Pilla said that he would like to make some remarks on this matter. He said that he would bundle his comments with his ideas regarding a public input approach. Mayor Pilla said that this is probably one of the most important decisions that this body will make in our time together and believes that public input in this matter is very important along with the financial impacts to the Village if there is an appeal. He spoke further about the anticipated costs of the counsel for the appeal and other costs that would be associated with that process. The Mayor also said that with the exit survey conducted for the cumulative voting that the majority of the participants understood and was satisfied with election system so is not sure that there is a large call by our residents to appeal this matter.

Mayor Pilla said that he has done some research and then spoke of a 21<sup>st</sup> Century Town Meeting process that could be facilitated by a nonpartisan no-profit organization called "America Speaks". He said that the meeting could be held at our Senior Center and could possibly be broadcast live with additional public comments electronically and/or by phone. The Mayor said that there would a moderator and a panel of speakers to give a

Feb. 16, '11 summary of the facts and issues then the public would breakdown into groups of ten with each group having a facilitator from this organization to present the groups' points on this subject. He spoke in greater detail regarding this Town Hall Meeting approach for public input, notifying of organizations and residents to participate and noted that America Speak would investigate grant funding to offset their cost for their participation. The Mayor said that this is an opportunity to show how inclusive we are with this proposed process.

Mayor Pilla said that the Board has a couple of options. He stated that we can table the resolution to retain the firm Jones Day to appeal the Department of Justice case to February 22<sup>nd</sup>, another option is we can put forward a resolution to hire an appeal attorney without a decision to appeal for a smaller amount of money until we have something that we can appeal or have the public process and delay the action to retain counsel for the appeal. Mayor Pilla asked Mr. Piscionere if he would be someone that would present as part of panel of speakers at this type of public meeting that he spoke about.

Mr. Piscionere stated that none of the past or present Board members were able to be up to speed on this matter in one session noting that when Trustee Kenner and Trustee Adams were appointed to the Board he and Mr. Vitagliano spent many sessions with them to educate them on this case. He said that what the Mayor is proposing is not a feasible way to educate the public within one session or two on this matter because this a very complex matter with a lot that has transpired during the course of this case.

Mayor Pilla said that in his opinion that is not a good reason to not to attempt to educate the public on this issue. He said that he has spoken to a lot of people and their comments to him was that it was the people of Port Chester that was the problem which it was not and that they do not understand that it is a problem with the election system. The Mayor said that the reason why he is asking for this approach is because he believes it can be very beneficial.

Trustee Kenner said that he agrees with one thing that the Mayor said and that the decision we are going to make is momentous which he agrees with and supports. He said that the issue for him is that he has sat through since 2007 countless hours of executive sessions and meetings of the Board based on this issue noting that he was elected in 2010 to be a fiduciary of this Village and that is what this is about and what our job is to go

through these sessions, debates and our independent research on this issue. Trustee Kenner said that the public education process is the Board meeting and he invites the public once again to come to the February 22<sup>nd</sup> meeting. He said that we will not be able to educate an entire electorate on this issue. Trustee Kenner said that he does not support the Mayor's ideas regarding this public approach stating that he does support having a public meeting which is the Board meeting on this issue. He said that the point is for the Board to be educated and for us to represent the people and that is what we were elected to do.

Trustee Brakewood said that there may be a compromise to have this discussion on February 22<sup>nd</sup> and to ask if the public wants more a process before the Board votes on this matter.

Trustee Marino said that it seems that half of the Board has made their decision so why delay the vote. He said this work shop approach will not work and noted that he is not supportive of going forward with the appeal.

Trustee Branca expressed his fears about the election process for 2013 when the entire Board will be up for election with cumulative voting. He said that he has made his decision based on that fear and looking at the financial aspects and believes that the Village can support this without a tax increase. Trustee Branca spoke about the savings the Village would realize if we win this appeal opposed to the running of the cumulative voting system. He said that Trustee Marino has said it that we have made our decision and that his position is that he wants to make sure the public is there that we are transparent so the public could speak if they want to so lets do this on February 22<sup>nd</sup> .

Trustee Marino stated that he wants to make sure that this does not raise taxes to go forward with this appeal. He said that he does not want the taxes to be raised if we fight this.

Trustee Brakewood said that this would be in the budget so it will still be paid by the public. He said that we are spending tax dollars on this issue and if we deliver a zero percent budget next year then we should have delivered a minus one percent because we fought this so the taxes are not minus one it would be zero.

Trustee Terenzi disagreed with Trustee Brakewood noting that we have excess revenue in excess of nine hundred thousand dollars and that is where the money would come from.

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Trustee Brakewood said then give it back to the taxpayers.

There was further discussion amongst the Board regarding costs, taxes and fund balance.

Mayor Pilla concluded that he discussed all the details with the organization America Speaks and that they were confident in the general public's ability to be educated and express their opinions.

Trustee Kenner asked that the question be called to table the resolution.

Mayor Pilla said that there is a motion to table to February 22, 2011 by Trustee Branca with a second by Trustee Terenzi.

ROLL CALL

AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino and Brakewood  
NOES: Mayor Pilla  
ABSENT: None

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At 9:20 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for consultation with the Village Manager regarding appointments of particular persons and other personnel matter. The Village Attorney was included in this session.

ROLL CALL

AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino, Brakewood and Mayor Pilla  
NOES: None  
ABSENT: None

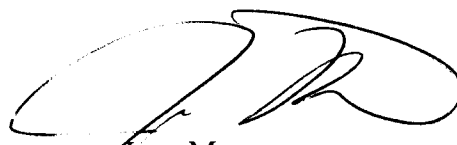
No action was taken in executive session.

There being no further business, on motion of Trustee Didden, seconded by Trustee Kenner, the executive session and the public meeting was closed at 10:02 p.m.

ROLL CALL

AYES: Trustees Didden, Terenzi, Kenner, Branca, Marino, Brakewood and Mayor Pilla  
NOES: None  
ABSENT: None

Respectfully submitted,



Joan Mancuso  
Village Clerk