

MEETING HELD NOVEMBER 21, 2011

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, November 21, 2011 at 6:00 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York with Mayor Dennis Pilla presiding.

Present were Trustees Daniel Brakewood, Saverio Terenzi, Bart Didden, John Branca, Luis Marino and Joseph Kenner.

Also present were Village Manager, Christopher Russo; Deputy Village Clerk, Jacqueline Johnson; Assistant Village Manager, Christopher Steers; Village Attorney, Anthony Cerreto; Village Treasurer, Leonie Douglas; Police Captain John Telesca and Village Engineer, Dolph Rotfeld.

* * * * *

On motion of Trustee Brakewood, seconded by Trustee Didden, the meeting was opened at 6:00 p.m.

ROLL CALL

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

At 6:00 p.m., on motion of Trustee Branca, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for consultation with Special Counsel, Justin Miller of Harris Beach regarding contract negotiations in reference to the Modified Marina Redevelopment Project.

Trustee Didden stated that he would recuse himself from this session regarding G&S matters.

ROLL CALL

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

No action was taken in executive session.

Trustee Brakewood made a motion to close the executive session and re-opened the public portion at 7:05 p.m., Trustee Branca seconded the motion.

ROLL CALL

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

It is noted that Trustee Didden rejoined the Board at this time for the public portion of the meeting.

* * * * *

Mayor Pilla introduced Edward Eways and Matthew Varguhese who will make a presentation to introduce their next community event.

Mr. Eways and Mr. Varguhese said that this event is called “Knock out the Negativity” which will be a boxing event that will promote positive ideas for the youth and residents of our community. They said that a date and location stills needs to be determined and thanked the Board for allowing them to start this initial introduction.

The Board thanked Mr. Eways and Mr. Varguhese for organizing these positive events within our community.

* * * * *

The Mayor asked if anyone from the public would like to comment at this time. He recognized Goldie Solomon. Ms. Solomon said that our taxes need to get down. She recommended Ed Eways for a community award and the Port Chester Fire Department which is the oldest 1st organized company in the United States.

Mayor Pilla then recognized Bea Conetta. Mrs. Conetta also spoke highly of Ed Eways. She then talked about the Planning Commission and thinks that they should not be the approval on big projects in the Village mentioning the Mariner Project which is currently being built and that instead the Board of Trustees should be in these discussions and approval for big projects. Trustee Didden commented on the building of the Mariner project. Mrs. Conetta said that she was dismayed with the voter count versus the number of registered voters for the November election.

The Mayor recognized John Reavis. Mr. Reavis thanked Trustee Kenner and Mayor Pilla for the proclamation for Bruce Bogeman for his work with the Carver Center. He said that there should be an analysis of the County budget which has a large number of layoffs. Mr. Reavis asked about the legality if the Board of Trustees takes back responsibility from the Planning Commission stating that he has a problem with the process. Christopher Steers, the Assistant Village Manager answered Mr. Reavis inquiry and there was further discussion on this topic with the Board and staff. Mr. Reavis then asked for a progress report regarding his continuance issue regarding jaywalking along Westchester Avenue and downtown. Mayor Pilla said that the issue regarding jaywalking deals with a State law and it is up to the police. There was further discussion on this topic.

Mayor Pilla asked if there was anyone else from the public who would like to comment. He recognized Richard Abel. Mr. Abel spoke about final approval process of the Planning Commission and if they approved the United Hospital site would the Board be able to put forward an Article 78. Trustees Terenzi and Branca said that the Board of Trustees is the lead agency for that site so would have final approval. There was further discussion on this topic and the Board asked that this be part of the agenda for a meeting between the Board and the Planning Commission to discussion lead agency and Article 78.

The Mayor recognized Doris Bailey-Reavis. Mrs. Reavis noted that she is a member of the Comprehensive Plan Advisory Committee (CPAC) and that developers are just building with no character that there are half empty apartments on Westchester Avenue which our community cannot sustain. She said that she is also concerned with the situation regarding jaywalking in the Village.

Mayor Pilla recognized Tony Cerreta. Mr. Cerreta noted that he spoke at the last meeting about parking problems downtown especially for his employees and tenants in the Willett House building. He said that the contractors for the Mariner Project should not be allowed to park using customer parking. The Mayor told Mr. Cerreta that the Police Department is looking at the decal count and use of the back fill lots off of Main Street. There was further discussion about downtown parking and the Marina Parking Lot.

The Mayor recognized Gene Ceccarelli. Mr. Ceccarelli spoke about an outstanding freedom of information request regarding information of County and State road reports. He also spoke about our zoning district noting that there are too many districts which causes confusion and that we need to look at the codes.

* * * * *

The Deputy Clerk presented the first resolution on the agenda authorizing the execution and delivery of amendments to Payment In Lieu of Tax Agreements and Settlement Agreement relating to the Modified Marina Redevelopment Project.

Trustee Kenner made a motion for discussion, Trustee Marino seconded the motion.

Trustee Didden recused himself from all G&S matters since he is involved with litigation regarding this project.

Neil Pagano, Chairman of the Village's Industrial Development Agency commented on this authorizing which the IDA has approved. There was further discussion from the Board on this matter.

AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENTS TO PAYMENT IN LIEU OF TAX AGREEMENTS AND A SETTLEMENT AGREEMENT RELATING TO THE MODIFIED MARINA REDEVELOPMENT PROJECT

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

WHEREAS, in furtherance of a certain Modified Marina Redevelopment Project (the "Project"), the Village of Port Chester (the "Village"), the Village of Port Chester Industrial Development Agency (the "Agency") and G&S Port Chester LLC ("G&S"), entered into a Land Acquisition and Disposition Agreement, dated as of July 14, 1999, and amendments thereto (collectively, the "LADA"), wherein the parties thereto memorialized their respective rights and obligations in connection with the Project, which has been developed into a multi-tenanted waterfront retail complex; and

WHEREAS, in furtherance of the Project and applicable provisions of the LADA, the Agency, by and through the Village, acquired certain parcels of real estate within the Village (the "Land") to be incorporated into the Project, with the Land being divided into several units (each a "Unit") which have been leased over time to certain Unit Lessees (including G&S Port Chester Retail I LLC, G&S Port Chester Unit 2A, LLC, G&S Port Chester Unit 2B, LLC, G&S Port Chester Unit 2C, LLC, G&S Port Chester Unit III, LLC and G&S Port Chester Unit 4A LLC, and collectively, the "Unit Lessees") pursuant to certain Unit Leases; and

WHEREAS, the Agency, the Village and the Unit Lessees entered into a series of Payment-in-Lieu-of-Taxes Agreements (collectively, the "PILOT Agreements") providing for certain payments in lieu of taxes ("PILOT Payments") to be made by the Unit Lessees for the

benefit of Westchester County (the "County"), the Town of Rye (the "Town"), the Port Chester School District (the "School") and the Village; and

WHEREAS, the Village, Agency, and Unit Lessees have negotiated certain Amended Payment in Lieu of Tax Agreements (collectively, the "PILOT Amendments"), wherein the Parties have clarified and amended certain provisions of the PILOT Agreements to (i) memorialize the taxable status of and tax parcels included within each Unit; (ii) clarify the Term of the Unit Leases and PILOT Agreements, attribute the applicable tax year of each Affected Tax Jurisdiction for PILOT Payments made during the term of the PILOT Agreements, and administration upon termination of each Unit Lease and PILOT Agreement; (iii) memorialize the prior Change Dates and Completed Floor Area (as such terms are defined within the PILOT Agreements) for each Unit of the Project; and (iv) clarify the amount of PILOT Payments, PILOT Payment Dates and billing procedures for annual PILOT Payments relating to each of the PILOT Agreements for the remaining terms thereof; and

WHEREAS, in order to resolve a certain dispute (the "Dispute") that has arisen among the Parties relating to (i) certain outstanding penalties and interest for PILOT Payments due and owing by the Unit Lessees in 2008 and 2009; and (ii) certain corrective PILOT Payments relating to the Change Dates and Completed Floor Area for each Unit of the Project as stipulated within the Amended PILOT Agreements, the Village, Agency, Unit Lessees and G&S desire to enter into a certain Settlement and Mutual Release Agreement; and

WHEREAS, the Village, by and through the Board of Trustees, desires to authorize the execution and delivery of the PILOT Amendments and Settlement Agreement.

Now, therefore be it

RESOLVED, that the Village hereby authorizes the execution and delivery of the PILOT Amendments and the Settlement Agreement in substantially the forms presented at this meeting; and be it further

RESOLVED, that the Village Manager is authorized to execute and deliver the PILOT Amendments and the Settlement Agreement on behalf of the Village and to take such further actions as are reasonably necessary to effectuate same.

ROLL CALL

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

BID AWARD – ACOCELLA CONTRACTING INC.
 FOR BENT AVENUE SIDEWALKS AND 2011 TOURAINÉ AVENUE DRAINAGE
 IMPROVEMENTS PROJECT

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

WHEREAS, the Village of Port Chester went out to bid for the Bent Avenue Sidewalks and 2011 Touraine Avenue Drainage Improvements Project; and

WHEREAS, twenty one contractors received the bid specifications and twelve of these contractors submitted bid proposals on November 9, 2011; and

WHEREAS, Acocella Contracting Inc., 68 Gaylor Road, Scarsdale, NY 10583, has submitted the lowest bid in the amount of \$214,468.00; and

WHEREAS, the County Planning Department has reviewed the bids and recommends awarding the bid to the lowest bidder with said bid meeting all the specifications as set forth in the bid documents. Now therefore, be it

RESOLVED, that the Village of Port Chester accept the bid of Acocella Contracting Inc. in the amount of \$214,468.00, which amount has been appropriated in the Sidewalk & Curb Bent/Touraine Avenue Project 5-5110.400.2011.119, and be it further

RESOLVED, that the Village Manager is hereby authorized to execute a contract for the Bent Avenue Sidewalks and 2011 Touraine Avenue Drainage Improvements Project with Acocella Contracting Inc., in accordance with the bid specifications, and be it further

RESOLVED, that the Board of Trustees authorizes the Village Treasurer to modify the Capital Budget and establish the Sidewalk & Curb Bent/Touraine Avenue Project as follows:

Decrease from \$145,000 to \$70,000.00

| | | |
|-------------------------------------|-------------------------------------|----------|
| Sidewalk Improvement (Village Prop) | | |
| 5.5.5710.2007.54 | Serial Bond | \$75,000 |
| 5.5110.400.2007.54 | Contractual-Sdwb Imp (Village Prop) | \$75,000 |

Establish

| | | |
|--|--|-----------|
| Sidewalk & Curb Imp-Bent/Touraine Avenue 11/12 | | |
| Estimated Revenues | | |
| 5.5.5710.2011.119 | Serial Bond | \$75,000 |
| 5.5.4789.2011.119 | CDBG Fed-Sidewalk Imp. | \$198,000 |
| Appropriations | | |
| 5.5110.400.2011.119 | Contractual -Sdwb & Curb Bent/Touraine | \$273,000 |

ROLL CALL

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

The Deputy Village Clerk presented the final resolution on the agenda closing out Capital Projects.

Trustee Kenner made a motion for discussion, Trustee Didden seconded the motion.

Christopher Russo, the Village Manager and Leonie Douglas, the Village Treasurer discussed the closeout of these projects with the Board. There were some questions on these matters that required further information from staff.

Trustee Kenner made a motion to table this resolution to the next Board meeting of December 5, 2011, Trustee Marino seconded the motion.

ROLL CALL

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

Mayor Pilla stated that the first discussion item on the agenda is regarding a Residential Rehabilitation Program and presented a powerpoint presentation for the following Neighborhood Revitalization Strategy. He said that this year the Board of Trustees assigned the highest priority for staff to develop and implement a Neighborhood Revitalization Strategy that is intended to be complementary to our Safe Housing Code Enforcement Program which would develop many tools in our tool box to promote safe and quality housing, bring all homes into compliance with New York State and local codes, promote owner-occupied housing, improve neighborhood conditions, property values and aesthetics. The Mayor continued that the program vision consists of proactive multi-family and commercial property inspection program, responsive complaint management, housing rehabilitation and ownership incentive programs, coordinated amnesty program and education and awareness programs. He said that housing rehabilitation and ownership incentive sources come from \$500,000 Community Development Block Grant (CDBG) awarded for income eligible neighborhoods for January 2012, \$600,000 developer offered affordable housing in-lieu of gift received from the Mariner Project, \$200,000 developer offered affordable housing incentive gift committed from the Castle Project, Master Plan vision for future development bonuses and other sources. Mayor Pilla stated that a proposal is being drafted by the Housing Action Council to identify and evaluate housing rehabilitation and 1st time buyer ownership incentive program options (considering Port Chester's specific needs – from Master Plan Housing Study and funding source opportunities), present options for implementation, develop decision framework for Board and develop detailed implementation plan. He spoke on the timing and next steps is that a proposal from Rose Noonan of the Housing Action Council is expected to be received in time for the next Board meeting discussion, Board decision for direction and funding by January 2012, CDBG Rehab Program (County-run) expected to begin January 2012 (dependent on County Fair Housing Lawsuit) and desire to implement initial program using \$600,000 already received before June 2012.

The Mayor concluded his presentation on what might our incentive tool box ultimately look like?

Village Housing Incentives:

- Including Code Compliance Rehab & 1st time buyer down-payment assistance.
- Up to 150% AMI eligibility
- Low interest loans
- Owner-occupied
- Not-For-Profit run

Community Development Block Grant Housing Rehab

- Targeting specific neighborhoods
- 80% AMI eligibility
- Administered by County

Transfer Development Credits

- Developers contribute to transfer bank for more density
- Funds become available to convert multi-family to single family homes
- Administered by Not-For-Profit

Neighborhood Stabilization Program
Federal program run by County
Targeting specific neighborhoods
Targets distressed and foreclosed properties

It was noted that we will have to wait thirty days on considering this program regarding the CDBG Housing Program awaiting for the status of the Westchester County Planning Department.

Trustee Terenzi commented on the Mayor's presentation stating that there are different funding balances and he has been bringing up with topic of the Rehabilitation Program on the portion that deals with the developers' funding

Trustee Didden raised some questions regarding the Mayor's presentation of the breakdown of the programs.

The Mayor said that these are three separate programs regarding the funding sources.

Trustee Brakewood said that this should not be just for 1st time home buyers because he is looking for rehabilitation of homes whether it is for the 1st time or 5th time buying. He said that he is looking for this program for owner-occupied properties.

Trustee Kenner inquired what would be the proposal from Ms. Noonan.

Mayor Pilla said that Ms. Noonan's proposal will provide the different program options for consideration.

Trustee Branca expressed his concerns regarding the not-for-profit wording.

The Mayor said that it is expected that Ms. Noonan will present her proposal from the Housing Action Council at the December monthly meeting.

* * * * *

The Board then held a discussion regarding creation of a Sanitary Sewer District Program. It was noted that this type of program would help reduce the property tax burden since all properties including non-profits would be part of the district and would be charged as a separate item on the property's tax bill. The question is how to charge which could be based on your water usage or a user fee based on a compound formula which could be based on property class (type of use – single family, multi-family, commercial etc.), property frontage (feet), assessed value or other methods.

Anthony Cerreto, the Village Attorney told the Board that it would have to be called a Village User Fee not a sewer tax because only the Town can have a sewer tax.

Trustee Didden said that we might want to do it through the water company and there was further discussion on that topic noting that the water company is privately owned and there may be difficulty obtaining the required information for billing purposes.

Christopher Russo, the Village Manager said that he and staff would work with Dolph Rotfeld, the Village Engineer on project staffing needs that he anticipates can be provided by the end of January 2012 to develop the decision framework. He said that he would give the Board a revised timeline for the next Board meeting.

* * * * *

Mayor Pilla noted that Rye Town Supervisor, Joseph Carvin is in the audience to speak on the final discussion item regarding government cable channel policy regarding airing of political videos so would take this discussion out of order at this time.

Supervisor Carin thanked the Board for allowing him to speak at this time. He explained that prior to the November election he had requested that a video of meet the Republican Candidates be aired on the Port Chester Cable Channel 75 noting that in the past a few years ago it was done but when requested this year it was denied. Supervisor Carvin said that he asked if there was a Village written policy not to air this type of video and was told no. He said that they are only seeking to promote democracy noting that he also made this request to the Village of Rye Brook who has a written policy who would not air the video and that he also has spoken to that Board at one of their meetings urging them to change their policy. He said that the Village of Port Chester should consider a written policy regarding airing these types of videos or not.

Trustee Branca said that he thinks it is up to each jurisdiction to decide what types of videos are aired.

Supervisor Carin said that the broadcast is under the Board's control and that candidates can create political advertising which if it cannot be shown is not beneficial to the voting public.

Mayor Pilla said that the Village should not be in the business of advertising that our channel is a government channel only not a public access channel and if Mr. Carvin or any other party or candidate wants to show these types of videos it can be done through Cablevision on the Public Access Channel 18.

Supervisor Carvin noted that there are political videos shown like Senator Oppenheimer's legislative update.

Trustee Branca said that we air valid government activity. Trustee Brakewood and Mayor Pilla said that they think what Mr. Carvin is asking for is inappropriate use on the government channel. They noted that the Village does air the nonpartisan debate videos done by the League of Women Voters. Mayor Pilla told Supervisor Carvin that the Board will get guidance from the Village Attorney on this matter and in the meantime he could use Channel 18 for these types of broadcasts.

* * * * *

Trustee Terenzi said that he requested the next discussion item on an exit conference with the auditors regarding Fiscal Year 2010-2011 audit. He told the Board that staff will be meeting with our auditors the firm of Drescher & Malecki, LLP at the beginning of December and possibly arrange for the auditors to meet with the Board at one of our meetings.

The Board was of a consensus with meeting with the auditors to review this exit conference.

* * * * *

Trustee Terenzi said that he also asked for this discussion item for the creation of a sub-committee for a 5 Year Capital Expenditure Plan and 5 Year Operation Budget.

The Mayor said that we need an engineering plan for roads, sidewalks and other capital project items indicating what has been done and what still needs to be done.

Trustee Terenzi stated that the proposed sewer district would be separate from the capital budget.

Trustee Brakewood said that we should document all of the demands then check off the solutions for each.

Mr. Russo said that everything needs to be shown in a five year plan.

Trustee Terenzi asked that Mr. Russo provide the Board with an overview regarding a five year capital plan sometime in January.

* * * * *

Trustee Terenzi said that he has received complaints regarding towing in the Village so asked for this discussion on our towing regulations. He said that we have one towing company and we should either give this work out to four or five different companies or do a bid proposal for this work.

Captain Telesca explained to the Board the process and reasons for towing, the number of vehicles that are towed annually which is over five hundred as of this date and the fees associated with towing which is \$80 plus storage. He said that a local company is used for towing for several reasons including that vehicle owners do not have to reclaim their vehicle out of the Village.

There was further discussion between the Board and Captain Telesca regarding the current towing regulations including the Village receiving portion of a fee. The Captain was asked to provide more details to the Board on how the process could be changed.

* * * * *

Christopher Steers, the Assistant Village Manager presented the Quarterly Code Enforcement Report. He reviewed the statistics and trends, the fire safety inspection program, the court case life cycle, initiatives and administrative notes including court proceeding information. The Board discussed with Mr. Steers several aspects of the report.

Mr. Steers provided the Board with the quarterly code enforcement report breakdowns since April 2011 of various Building processes including applications, permits, searches, Freedom of Information requests, consultations, inspections, application and plan review and the daily number of walk in customers. He reviewed for the Board a proposed schedule of scanning of documents.

Mr. Steers concluded his report with a discussion by him and Mr. Russo with the Board regarding a follow up of a staffing plan for Building, Planning & Zoning Department. The Board discussed this staffing proposal and the costs associated with filling these positions. There was also discussion on the proposal from last year on the use of the professional fire fighters for inspections which it was noted should be discussed further under an executive session.

* * * * *

Mayor Pilla presented a report from Reliance Engine & Hose Co. No. 1 on the election to active membership of Aaron J. Stahl.

The Board of Trustees noted the action taken by Reliance Engine & Hose Co. No. 1.

* * * * *

Mayor Pilla presented a report from Washington Engine & Hose Co. No. 4 on the resignation of Kyle Marshall.

The Board of Trustees noted the action taken by Washington Engine & Hose Co. # 4.

* * * * *

Mayor Pilla asked if there was anyone from the audience who would like to speak at this time. He recognized Richard Abel.

Richard Abel spoke about the number of tows that occurred so far this year and that the Village would like a cut for those fees that should be included in the fee schedule. He said that regarding Supervisor Carvin's comments regarding public access to his political video on the Village's government channel is unfair and unpractical. Mr. Abel told the Board that this meeting provided good information for the public.

The Mayor recognized Gene Ceccarelli.

Gene Ceccarelli wished everyone a very happy Thanksgiving.

* * * * *

The Mayor asked if any of the Trustees had any comments.

Trustee Brakewood said that he is glad on what is being accomplished with Code Enforcement. He said that it is a good thing that development is happening in the Village that these developments are creating jobs but noted that most of these developments were approved quite a long time ago. Trustee Brakewood said that it was a privilege being a candidate for the County Legislator seat in the 6th District. He extended his best wishes to new elected Legislator David Gelfarb.

Trustee Terenzi said that he agrees with Trustee Brakewood regarding development. He said that the election that Trustee Brakewood was a candidate in was a good campaign from both candidates. Trustee Terenzi noted the passing of Gino Piazza and expressed his condolences to his family.

Trustee Didden said that he is happy with the development of the Restaurant Depot facility and the Mariner Project which people have complained that the Mariner building comes out to the sidewalk which other buildings do and is in keeping with the character of the downtown. He also noted that the Mariner and the Castle projects were approved a long time ago by previous administrations. Trustee Didden wished everyone a happy Thanksgiving.

Trustee Branca expressed his condolences to the Hansen family on the passing of past Fire Chief Neils Hansen. He thanked staff and wished everyone a happy Thanksgiving.

Trustee Marino asked that a letter be sent to the Taxi Commission members if they are still interested in serving on this commission. He also expressed his condolences to the Hansen family and wished everyone a happy Thanksgiving.

Trustee Kenner said that he is also happy with the creation of jobs from developments noting that the Restaurant Depot facility has 53 employees which about 40 are Port Chester residents. He spoke about the progression of the Village's Industrial Development Agency.

Mayor Pilla also commented on the Industrial Development Agency's progression and other programs that the Village is seeking to move forward with including the residential rehabilitation program and sewer district program. He said that staff with a subcommittee of the Board has an upcoming meeting with Starwood. The Mayor spoke about community service rewards and expressed condolences for Gino Piazza's family. He said that the Village of Rye Brook will be holding a public hearing on their Affordable Housing overlay zone tomorrow the 22nd which a representative will appear on behalf of the Village. He made comment regarding a traffic accident that he was involved with in the Village. Mayor Pilla concluded his comments wishing everyone a happy Thanksgiving.

* * * * *

There being no further business, on motion of Trustee Didden, seconded by Trustee Branca, the meeting was closed at 11:13 p.m.

ROLL CALL

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

Respectfully submitted,



Jacqueline Johnson
Deputy Village Clerk