

Regular meeting of the Board of Trustees of the Village of Brockport was held in the Village Hall Conference Room 49 State Street Brockport, New York, October 5, 2015 at 7:00pm.

PRESENT: Mayor Margaret B. Blackman, Trustee/Deputy Mayor William G. Andrews, Trustee Valerie A. Ciciotti, Trustee Katherine J. Kristansen, Clerk Leslie Ann Morelli

EXCUSED: Trustee John D. LaPierre

ALSO PRESENT: Carlos Zaragoza, Pam Ketchum, Jack Merritt, Joan Hamlin, Fred Webster

CALL TO ORDER / PLEDGE: Mayor Blackman called the meeting to order and led the Pledge of Allegiance.

MOMENT OF SILENCE: to honor those who serve our Country, enforce our laws, & respond to emergencies

MISSION STATEMENT: "To provide a high quality of life for all residents, exercising fiscal responsibility and preserving Brockport's unique heritage and historic character."

BROCKPORT HISTORICAL MOMENT: Trustee/Deputy Mayor Andrews shared the following:

We turn our attention this evening to the way the Brockport area was opened to settlement by Europeans. The proprietors of the Triangular Tract of which the Town of Sweden became a part initiated the settlement effort in 1801 by contracting to have a road built to bisect the area running from the southern tip of the property at what is now Leroy to the shore of Lake Ontario at Sandy Creek.

According to an account by one of the road builders, many years later, it took six men four days to cut a swath four rods wide the 25-mile distance following an old Indian trail. It could not have been more than the "road that a wagon could go down" required by the contract. The road was so primitive that trees had to be blazed to mark the route.

Marmion Peters, another of the workers, wrote a colorful description of the way they toiled. Here it is as reported in the Batavia Times in 1896:

Its crookedness is accounted for on the ground that those laying it out had too big a stock of "tangle foot" in their supplies.

The party coming to the Black Creek could not ford it, and went east to where the present Lake Road bridge crosses the creek. They were soon across the creek and worked lively until noon, when they found themselves a little south of what is now Sweden Centre. Here they crossed a small swamp by going over some logs and some little ridges like a hog's back. North of it they found a spring where they took their dinner. They took a smoke and started on working quite fast and went into camp on the ridge, which did not yet have a road.

North of the ridge the land dropped off into a dismal swamp covered with water from one to twelve inches deep. "Well, it might be called the 'black north'", Peters said. Getting firewood and eating supper occupied more than an hour and they turned in for the night about ten o'clock, "Not forgetting our bitters," said Peters, "as they were necessary, we thought, to keep the ague off; or at least that was the excuse."

The next morning they headed back south, says Peters, "well filled with fish fowl and venison, and slightly moistened with 'tangle foot', which now owing to its scarcity we were obliged to use sparingly—no taverns every mile then". As they had not marked the trees on their way north, they did so as they returned. He concludes his account, "You will see that the road from the creek to the bridge is not as crooked as south of the creek to Le Roy. The reason is that the bottles through which we took observations were nearly empty."

OATH OF OFFICE: none

CERTIFICATES & PROCLAMATIONS: none

PUBLIC HEARING: none

PUBLIC COMMENT:

- Carlos Zaragoza of 3, 5, 7, Main Street & 5-9 Market Street – shared that he is having roof and window work done on his Main Street buildings and the contractor needs to locate a dumpster nearby for up to a week beginning this Wednesday, October 7th. The best place for the dumpster due to power lines and pedestrian traffic is to use one and a half parking spaces behind the building parallel to the Canal in the Water Street parking lot. He showed a simple diagram. Pam Ketchum said she as part of

the Main Street Grant Committee has been assisting C. Zaragoza with the process. He is getting 50% of the funds for the roofing and windows. It is time-sensitive as the work needs to be done by October 15th and it was quite a task to get all of the estimates and financing together.

Trustee Kristansen said she thinks it is wonderful that these improvements will be made to the buildings and has no issue as long as the Village has no liability in relation to the placement of the dumpster on Village property. Trustee Ciciotti concurred.

Mayor Blackman said typically when the Village Board authorizes a temporary street closure or parking lot closure far enough in advance, the Village sends out a letter to the property owners as a courtesy. This being such short notice, it may be best for C. Zaragoza to visit his neighboring merchants to apprise them.

Mayor Blackman said it is standard practice for the Building Inspector/Code Enforcement Office to obtain appropriate certificates of insurance for projects. Clerk Morelli concurred. Trustee Ciciotti suggested C. Zaragoza provide the insurance certificates for Clerk Morelli to have reviewed by the Village's broker.

P. Ketchum said she knows the contractor has insurance and imagines the dumpster owner has insurance, but expressed concern as to what the alternative would be if he doesn't. The Village wants these improvements made and should do what it can to accommodate them.

→ Trustee Andrews moved, Trustee Kristansen seconded, carried 4/0 to authorize the temporary placement of a dumpster on Village property - to use one and a half parking spaces behind the building parallel to the Canal in the Water Street parking lot from Wednesday, October 7th through Wednesday, October 14th contingent on appropriate proof of insurance.

GUESTS:

- Brian Winant, Stetson Club President – 5pm Sunday, 12/6/15 holiday parade – approve parade application, authorize NYSDOT PERM 33c application, authorize peddling (concessions) – Clerk Morelli presented the application in B. Winant's absence. Once the Village Board approves the Village parade license, she will submit the NYSDOT PERM 33c application and certificate of insurance to NYSDOT Region 4 as they have to issue a permit for the use of Main Street (NYS Route 19).

Clerk Morelli said B. Winant indicated starting to be contacted by potential vendors who may wish to sell concessions before, during, and after the parade. He asked Clerk Morelli to inquire with the Village Board how this should be handled as in the past they have waived the application fee. Also, if the concession cart is not mobile, is there a particular location that vendors should or should not set up. Mayor Blackman suggested placing the peddling-soliciting component of the holiday parade on the next agenda for consideration.

→ Trustee Kristansen moved, Mayor Blackman seconded, carried 4/0 to issue the parade license as #15-3 for the Brockport Stetson Club to hold the Holiday of Lights Parade Sunday, December 6, 2015 from 5pm to 7pm from North Main Street and West Avenue – south on Route 19 (Main Street) to Sagawa Park at the corner of Main Street and Erie Street and authorize Clerk Morelli to submit the PERM 33c application and proof of insurance to NYSDOT.

CONSENSUS ITEMS:

- **APPROVAL OF MINUTES:**

→ Mayor Blackman moved, Trustee Kristansen seconded carried 4/0 that the minutes of the 9/21/15 meeting be approved as written.

→ Mayor Blackman moved, Trustee Kristansen seconded carried 4/0 that the minutes of the 9/28/15 meeting be approved as written.

- **APPROVAL OF BILLS TO BE PAID**

→ Trustee Andrews moved, Trustee Ciciotti seconded, carried 4/0 that the bills be allowed and paid upon audit.

A/P Clearing Account

	<u>Abstract Date</u>	<u>Amount</u>
FUND (A): <u>General</u>	10/5/15	\$94,642.30
FUND (F): <u>Water</u>	10/5/15	\$677.65
FUND (G): <u>Sewer</u>	-	-
FUND (H): <u>Capital</u>	-	-
FUND (T): <u>Trust & Agency</u>	-	-
		\$95,319.95 total

CLERK REPORT: Clerk – Leslie Ann Morelli

- o Tax collection update – Clerk Morelli reported tax collection at 96% to date. The second delinquent notices (as a courtesy) were mailed to the owners of 72 properties earlier today.

- o Annual notices to retirees on Medicare – Clerk Morelli referred to the information emailed to the Board this afternoon - required annual notice to retirees on Medicare of creditable coverage regarding prescription drugs and of the upcoming year's premiums. The Village's MVP Preferred Gold policy will be increasing from \$240.20 per month per person in 2015 to \$299.50 per month per person. There are 14 on Medicare. Of those 2 are self-pay, 2 contribute 20% to the premiums, and 10 are covered in full by the Village.

- o Climate Smart Communities – Clerk Morelli shared that Deputy Clerk-Treasurer Erica Linden learned today that the Village of Brockport is now officially a "Climate Smart Community" and is eligible to use the logo on any publications should we choose to do so.

- **PERSONNEL ITEMS:**

- o Accept resignation of Pete Selig as Planning Board representative on Housing Task Force -

→ Trustee Ciciotti moved, Trustee Andrews seconded, carried 4/0 to accept the resignation of Pete Selig as Planning Board representative on the Housing Task Force.

- o Appoint to fill vacancy on Tree Board to complete a term to 6/30/17 -

→ Trustee Andrews moved, Trustee Kristansen seconded, carried 4/0 to appoint Merrill J. Melnick to fill the vacancy on the Tree Board to complete a term to 6/30/17.

- o Appoint to fill vacancy on Parks Committee for a term to 6/30/19 -

→ Trustee Andrews moved, Trustee Kristansen seconded, carried 4/0 to appoint Karen Agostinelli to fill the vacancy on the Parks Committee to complete a term to 6/30/19.

- o Authorize advertising remaining Board/Committee vacancies – Board discussed the Board/Committee vacancies that remain. They were last advertised in late July. Mayor Blackman suggested putting this on the next agenda. It will include a vacancy to be filled for 1/1/16 as a Village representative on the Seymour Library Board.

- **OLD or NEW BUSINESS:**

- o Request for a "stay" on Village Code Chapter 43-3.G.(6)(b) – re # of political signs - Mayor Blackman shared the following:

Per conversation with NYCOM counsel Wade Beltramo today, the authority to enforce/suspend enforcement of local laws is the power of the Mayor per Village Law 4-400. That being said, in such cases I prefer to seek the endorsement of the Village Board.

The Village Code regarding political signs was enacted into law in 1992. I don't know how many times it has been questioned since then as to the issue of the number of political signs per property, but it was questioned when I was first on the Village Board. It was questioned under the First Amendment (restriction of free speech), and the consensus then was that it is unenforceable. So, to my knowledge, this section of the Village Code was simply not enforced by past BI/CEO's.

Meantime, the Code Review Committee noted this and began recommended revisions of Village Code Chapter 43 regarding signs and submitted to the Mayor and Trustees a final draft in 2011. This draft removed all references to restricting political signs, because as written they were regulating content which brings us back to the first amendment. On October 1st, Clerk Morelli circulated a copy of that 2011 document at CRC Chair Art Appleby's request. The CRC will resume review and consideration of Chapter 43 at their next meeting and be sure to run it past the current Village Attorney.

What brought this to a head is that BI/CEO David Miller, unaware of this recent history of this provision of Village Code Chapter 43, delivered letters, quoting the political sign code, to a number of homes in the village that displayed more than one political sign. He did not issue any notices of violation, but simply noted they were in violation of the Village Code by displaying more than one sign.

I don't know when these letters began to be issued but I first heard about them last Tuesday afternoon, September 29th, when I came to the office and spoke with Assistant BI/CEO David Rearick and BI/CEO Clerk Pam Krahe. That day BI/CEO David Miller was out. I don't fault David for not notifying me, as he was simply enforcing a law that was in the Village Code. Nonetheless, I told Assistant BI/CEO David Rearick not to issue any more letters and left BI/CEO David Miller a voicemail indicating why I was doing so. By that time the notices had already gone to two former mayors and a Republican candidate

for Sweden Town Board, among others.

Following that, the same afternoon I received a call from Village Attorney Dan Mastrella saying that it was good that I called a halt to the distribution of notices because Sweden Town Attorney Jim Bell, representing the Sweden Republicans, had sent him a letter that morning saying that if this continued he was going to file suit against the village on their behalf. Attorney Mastrella followed up his phone call with an email to me and BI/CEO David Miller containing Attorney Bell's letter along with three legal cases relating to political signs.

I then asked Clerk Morelli to add to tonight's agenda the suspension of the section of the Village Code relating to the number of political signs. Following that there were some emails questioning whether the Board's authority to suspend laws was written in village law (4-400). There was also a suggestion that we simply repeal the entire section on political signs to avoid litigation. However, this can only be done by following the procedure for enacting/retracting public laws which is by public hearing followed by a vote, by which time November elections will be over.

Finally, on October 1st I asked Attorney Mastrella to weigh in on the issue of the source and to explain in layman's terms the Arlington decision which rendered limiting the number of political signs illegal, and to share Attorney Bell's letter with the Village Board. Attorney Mastrella confirmed that the best solution at this time was for the Mayor to suspend enforcement of Village Code Chapter 43-3.G(6)(b).

→ Mayor Blackman suspends enforcement of Village Code Chapter 43-3.G(6)(b).

The positive outcome in all this is that a piece of the Village Code that was long unenforceable but more or less ignored has now been called to everyone's attention. It can be temporarily fixed by suspending enforcement. It will be taken up by the Code Review Committee at their next meeting to work towards fixing it permanently.

→ Further, Mayor Blackman rescinds 9/21/15 action of the Village Board which temporarily suspended enforcement of Village Code Chapter 43-4.D and re-established allowable size of real estate signs from four square feet to five square feet. This section of Village Code will remain until further research is conducted and recommendation received from the Code Review Committee as any change or repeal of sections of the Village Code must be done via the Local Law process.

- Award sale via Auctions International: 2009 Ford Crown Victoria 4DSD, 2005 Chevy Silverado Extended Cab Pickup, 1997 Chevy 2500 Pickup -

→ Trustee Ciciotti moved, Trustee Kristansen seconded, carried 4/0 to accept the top bid of \$1,375 for the 2009 Ford Crown Victoria 4DSD, \$10,701.99 for the 2005 Chevy Silverado Extended Cab Pickup, \$3,101.99 for the 1997 Chevy 2500 Pickup with the next highest runner up bids should those fall through.

VILLAGE BOARD REPORTS:

- Mayor Margaret B. Blackman
 - Late penalties on taxes – Mayor Blackman reported on a property owner complaint about not receiving a Village tax bill and having been charged a late penalty. She and Clerk Morelli informed him it was against the law to waive the late penalty. He wanted the citation of the law. Real Property Tax Law 1430 notes that the failure to mail tax bill or failure of addressee to receive tax bill doesn't affect the validity of the taxes or the late penalty imposed by law. Not good enough – why couldn't we waive the penalty. Opinion of the State Comptroller 68-626 that no village officer or employee can waive interest and late penalties on real estate taxes received after the due date for any reason. Still not good enough. Thought a 7% penalty was excessive and wanted to be directed to the law outlining how the penalty is determined. The penalty across New York State is uniform. The interest rate applicable to late property tax payments under section 924-a of the Real Property Tax Law is one percent per month of portion therefore. This rate has not changed since it was instituted in 1983.

- E.L.K. Museum – Mayor Blackman reported having attended the museum studies class guest lecture 9/24 of Dan Ward, curator of the Erie Canal Museum and co-producer of the 31 minutes film screened "Boom and Bust; America's Journey on the Erie Canal". The film was oral history interviews with former factory workers and follow up today. It may be a possible Low Bridge High Water festival event.

- BCSD Homecoming Parade – Mayor Blackman reported having been a judge at the 9/25 High School homecoming parade.

- Walk Bike Brockport – railroad bridge mural project – Mayor Blackman reported having attended the 9/28 Walk Bike Brockport meeting 9/28 in which they discussed the gateway project of a welcome mural on the railroad bridge. Chair Ray Duncan has put this up on the GoFundMe site with \$530 in donations since October 1st. This will supplement any grants we hope to receive.

- **Bonduelle** – Mayor Blackman reported having met 10/2 at Bonduelle with their CFO and management, Monroe County Economic Development people and Sweden Supervisor Carges. Bonduelle wants to build their own 100,000 square foot warehouse at a cost of \$14 million, preferable adjacent to their land. They offered to buy warehouse space from Allied (they are the biggest customer), but the period of time it would take to recoup the investment would be too long. They're looking at 5 years. Mayor Blackman said she suggested some of the 28 acres connected with 200 State Street as she doesn't believe all of it is contaminated. The concern is with what is under the GE building and to the east of it where there is oil. They will be talking with Monroe County Real Property Director Tim Murphy. It is important to keep them here and they want to stay here. They are expanding their operations by 30 workers a year. This was followed up with a letter to the CFO.

- **College Lathrop Hall ribbon cutting** – Mayor Blackman reported having attended the 10/2 ribbon cutting of the remodeled Lathrop Hall at the College.

- **College Homecoming Parade** – Mayor Blackman reported having been a judge at the 10/3 College homecoming parade.

- **Start Up NY** – Mayor Blackman shared having received correspondence today from the College at Brockport as to the Amended Start-Up NY Plan for Designation of Tax-Free Areas.

"The College at Brockport, State University of New York, has amended its approved Start-UP NY Plan to add 8 non-affiliated parcels located within a one-mile radius of Brockport's main campus and removing one campus property located in downtown Rochester.

Governor Cuomo's Start-UP NY initiative directs each SUNY campus to develop and submit to the NYS Commissioner of Economic Development, including amendments, for approval. At least 30 days before submitting the Plan to the Commission, the SUNY campus must provide a copy of its Plan to applicable stakeholders for an opportunity to comment.

The College at Brockport's amended Start-UP NY Plan is enclosed for your review. If you have any comments, please provide them to me in writing by November 2, 2015. If you have any questions or would like clarification regarding anything contained in the Plan, I am available at jwillis@brockport.edu.

Any future amendments or modifications of the College's Plan, including the designation of additional Tax-Free NY Areas, will be submitted to applicable stakeholders for a 30-day comment period.

Regards, James A. Willis, PhD Vice President for Administration and Finance"

Mayor Blackman said she would have Clerk Morelli scan the document to the Board. She said there are 3 parcels in the Village of Brockport: 43 Market Street, 85 Clinton Street, 80 Clinton Street. The tax exemptions and incentives in the Start-UP NY program do not include property taxes, so the Village won't lose property taxes from those properties.

- **Solar Energy** – Mayor Blackman reported that Brad Kelly of Larsen Engineers said the solar energy PPA is populated. He will forward it and look for approval at the 10/19 Village Board meeting. She will be sure the Village Attorney reviews it by then.

- **Police Department** – Mayor Blackman reported having participated in the Police Department interview of a 3rd candidate for one of the 3 anticipated vacancies. It is an involved process requiring contingent offer then background, psychological, and Civil Service listing. Mayor Blackman said per Chief Varrenti the earliest hiring would be December.

- o Trustee/Deputy Mayor William G. Andrews

- **Historic Preservation Board – High Street Cemetery** – Trustee Andrews reported the Mayor having received notice from NYS Office of Parks, Recreation and Historic Preservation today.

"This letter is to notify you that the property listed above (Brockport High Street Cemetery) is being considered by the State Board for Historic Preservation for nomination to the State and National Registers of Historic Places at its next meeting on December 3, 2015. Enclosed is a draft copy of the fully documented nomination proposal and a copy of the criteria under which properties are evaluated. Certified Local Governments are required to participate in the nomination process as follows:

- The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not the property, in its opinion, meets the criteria for listing on the State and National Registers.
- Within sixty days of notice from the State Historic Preservation Office, the chief local elected official shall transmit the report of the commission and his/her recommendation to the State Historic Preservation Office

In the event that the commission and the chief elected official agree that the proposed nominations do not meet the criteria for listing, the chief elected official will return the nomination materials along with the commission's report and his/her recommendation to the State Historic Preservation Officer, who will take no further action unless appeal is filed within 30 days.

Please send your comments to the above address before December 2, 2015. For more information, please contact Dr. Virginia L. Bartos at (518) 268-2161 or at Virginia.bartos@parks.ny.gov.

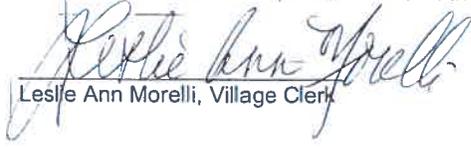
Sincerely, Ruth L. Pierpont, Deputy Commissioner for Historic Preservation"

- E.L.K. Museum – Trustee Andrews reported having attended the 9/23 E.L.K. Museum Board meeting. They discussed having been denied the LGRMIF grant applied for the restoration of 3 maps and the need to use Shafer Trust monies for such. (Village Board authorized such 9/21/15.)
- Western Monroe Historical Society – Trustee Andrews reported having attended at the Morgan Manning House the recent Smoke, Flames, Fire presentation by Pete Randazzo and firemen from 1964 who helped put out that fire. He helped give tours after the presentation.
- Walk Bike Brockport – Trustee Andrews reported having attended the 9/28 Walk Bike meeting.
- Town/Gown – Trustee Andrews reported that the sub-committee on housing he is a part of has accepted a proposal which will go to the main Town/Gown Committee for review.
- College – Lathrop Hall – Trustee Andrews reported having attended the 10/2 re-dedication of Lathrop Hall, devoted to the Nursing program, totally modernized and equipped including robot simulators as patients. The building is aesthetically pleasing.
- Brockport Community Museum – Trustee Andrews said several projects are in the works including replacement of the interpretive sign by Hartwell Hall and stolen marker by the flagpole. The Brockport Community Museum website is undergoing many changes.
 - Trustee Valerie A. Ciciotti – no report
 - Trustee Katherine J. Kristansen – no report
 - Trustee John D. LaPierre (excused)

EXECUTIVE SESSION: none

ADJOURNMENT:

→ At 7:58pm, Trustee Kristansen moved, Trustee Andrews seconded, carried 4/0 that the meeting be adjourned.



Leslie Ann Morelli, Village Clerk