

Regular meeting of the Board of Trustees of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, June 8, 2011 at 7:00pm.

EXECUTIVE SESSION:

→ At 6:18pm, Deputy Mayor Kuhn moved, Trustee Blair seconded, carried 4/0 that the Board of Trustees of the Village of Brockport enter into executive session to interview the Search Committee's finalist for the Village Manager/Treasurer position.

→ At 7:04pm, Deputy Mayor Kuhn moved, Trustee Blair seconded, carried 4/0 that the Board of Trustees of the Village of Brockport re-enter the regular meeting.

PRESENT: Mayor M. Connie Castañeda, Deputy Mayor/Trustee Daniel P. Kuhn, Trustee Kent R. Blair, Trustee Carol L. Hannan, Clerk Leslie A. Morelli

EXCUSED: Trustee Scott W. Hunsinger, Treasurer Mary Beth Lovejoy, DPW Superintendent Harry G. Donahue, Police Chief Daniel P. Varrenti, Building/Zoning Officer Scott C. Zarnstorff, Fire Chief Michael J. Henry, Attorney Robert S. Leni, Esq.

ALSO PRESENT: Amanda Beran, Aaron Ierlan, Mary Jo Nayman, Hanny Heyen, Jim & Joan Hamlin, Kathy Vendel, Thomas Mangan, Paul Gallaway, Fran Bovenzi, Margay Blackman, Rudy Aceto, Kristina Gabalski, Norm Giancursio, Fred Webster

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

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

PUBLIC COMMENT:

- Hanny Heyen of Frazier Street read the following prepared statement into the record:

I'm here because it is time to do the right thing. It is not right the way our new Village Manager is being hired. As a former VB member and a resident in our Village, I urge the mayor to implement a fair-minded, open hiring policy that means no exclusions of trustees who want to serve. How can there be any disadvantage whatsoever by having the entire Board participate in the selection process? You don't have to look back to our forefathers for advice; instead, our recent Village mayors have set the right tone and precedent. They should be your guide. Here are some examples:

The Thorpe Administration: Resumes of all the potential candidates for a job were shared, looked at by all board members, and discussed. Once the prospective candidate list narrowed to 5-6 candidates, they were invited to be interviewed. Evaluations by the full Board of Trustees using a matrix assessment (scoring candidates in categories such as skills, experience, work ethics, etc.) brought consensus. Board members were active in the whole process. As NYS municipal law stipulates, the mayor puts forth the name of the applicant for the VB to formally approve.

The Matela Administration: When Ian Coyle first became our treasurer and later our Village Manager, the process was very open. A panel, including board members and individuals from our community, interviewed candidates, used a rating scale, added commentary and discussed candidates strengths, weaknesses, etc. Agreement was reached and the mayor submitted the prospective employee's name for a Board vote. The same process was used to hire Police Chief Dan Varrenti.

The Wexler Administration: As Mayor Castaneda knows from her term as trustee, Mayor Wexler always encouraged and invited trustees to be involved in the interview process of a candidate for a Village position. Mayor Castaneda and I were trustees when the Village needed to hire an attorney. I recall Mayor Wexler, Trustee Wagenhauser and I interviewing a potential attorney. We gave our opinions, discussions ensued, and the mayor put forth the name of a candidate for a Board vote, based on interviews involving him and other trustees.

The Castaneda Administration: The hiring of Treasurer Lovejoy, the handling of grant writer presentations/interviews, and now selecting a new Village manager have not been fair. Not to the Board, not to the public whose taxes pay the salaries, and not to the candidates. Think, for a moment, about the candidate who will be hired, knowing the Board majority didn't see his /her resume nor have any input. What a loss. How can the three trustees in good conscience vote for someone they know nothing about?

Let's learn from history. The former mayors and trustees used fair and inclusive hiring practices that took no power away from the mayor. It's not too late to do the right thing!

GUESTS:

- o Margay Blackman, Historic Preservation Board – website proposal re historic properties – distributed the following and asked the Village Board for permission to have such a website linked to the Village website similar to that done with the Tree Board. No funding is requested at this time. They will seek funding elsewhere.

Web Site Proposal for the Brockport Historic Preservation Board

PROPOSAL: ScenicView Web Company proposes to create a website for the Brockport Historic Preservation Board contained within the Village of Brockport website as a sub-domain with its own distinctive design and separate navigation.

Site Design: Proposal to create an attractive design for the website with easy to use navigation based on the outline provided by Margay Blackman. The website would include a home page and a menu to the following pages and content:

- 1) About the Board
- 2) Members
- 3) Our Historic Downtown
- 4) National Register Buildings
 - possibly several pages and/or links to PDF files
- 5) Landmark Village Homes
 - 50 of these homes initially displayed in PDF files of each these would be linked from two content pages one a listing by architectural type and one listing by address.
- 6) Historic Preservation Ordinances
 - link to PDF file(s)
- 7) Designating Your Historic Property
- 8) Information for businesses in the Historic Downtown.

Site Maintenance: As this is a part of the Village website there would be no additional hosting fee however due to the need to add additional Homes or Buildings to this site periodically there would be a maintenance fee. See the costs below.

Site Content: Website layout would consist of the above pages with site navigation and PDF and other files as needed. The home page would mimic the look seen in the PowerPoint presentation that Margay Blackman presented at the HPB meeting on 4/21/11. Each page would have a similar look and feel.

COST:

Website Construction: \$350 one time fee

Maintenance Fee: \$200 annual fee

Total would be invoiced upon satisfactory set-up of the website.

Thanks,
Waylen Bray
ScenicView Web Company

CONSENSUS ITEMS:

- **APPROVAL OF MINUTES:**

→ Deputy Mayor Kuhn moved, Trustee Blair seconded, carried 4/0 that the minutes of the 5/25 meeting be approved as written.

Trustee Blair commented that he wished to clarify that his vote 5/25 regarding rescinding the 5/11 motion to exempt DPW Superintendent Donahue and Foreman Moore from the cut from 40 to 37 ½ hours pay per week. He said his vote should have been yes instead of no. He meant to support that ALL employees in a class, in this case full-time non-union employees, need to be treated the same. He said the misunderstanding did not affect the result as the vote passed away.

- **APPROVAL OF BILLS TO BE PAID**

→ Deputy Mayor Kuhn moved, Trustee Blair seconded, carried 4/0 that the bills be allowed and paid upon audit with the exception of voucher #29950 for \$11,797.71.

Some Trustees need to finish the review and initial of vouchers after the meeting.

A/P Clearing Account

	<u>Abstract Date</u>	<u>Amount</u>
FUND (A): <u>General</u>	6/7/11	\$79,748.22
FUND (F): <u>Water</u>	6/7/11	\$136.55
FUND (H): <u>Capital</u>	6/7/11	\$11,109.85
FUND (T): <u>(Trust & Agency)</u>	-	-
		\$90,994.62 total

	<u>Abstract Date</u>	<u>Amount</u>
FUND (A): <u>General</u>	6/8/11	\$238,304.62
FUND (F): <u>Water</u>	6/8/11	\$18,618.89
FUND (H): <u>Capital</u>	-	-
FUND (T): <u>(Trust & Agency)</u>	-	-
		\$256,923.51 total

\$347,918.13 grand total

• **PERSONNEL**

- Resignation –
Deputy Clerk Treasurer – Pauline Johnson – last day 6/17 instead of 6/30 -

→ Trustee Blair moved, Trustee Hannan seconded, carried 4/0 to accept the resignation of Pauline Johnson as Deputy Clerk Treasurer effective June 17, 2011 with thanks for her service.

- Vacancy –
 - Seymour Library Board – to complete term to 12/31/13 – no applications received by deadline -

NEW BUSINESS:

- Fire Department proposal for new boat at a cost of \$5,230.95 -

→ Trustee Blair moved, Trustee Hannan seconded, carried 4/0 to approve the purchase for a new boat at a cost of \$5,230.95 as there is money in the Fire Department budget.

- Fire Department proposal for part time Administrative Assistant/Cleaner – Board reviewed the job description which included skills required and specific job responsibilities for a part time position at 16 hours per week. Funds to come from the Fire Department budget line previously meant for dispatchers.

→ Deputy Mayor Kuhn moved, Trustee Blair seconded, carried 4/0 to authorize advertising a vacancy with the Fire Department: Administration/Cleaner part time.

Trustee Blair suggested the title be considered Laborer and the hourly wage not exceed what the past part time dispatchers were making. Position to exist while there is funding.

- Authorize Village Attorney work outside the cap – review of CRC’s proposed amendments to Village Code Chapters 34 (Parking), 43 (Signs & Billboards), 46 (Trees & Vegetation) -

→ Trustee Blair moved, Deputy Mayor Kuhn seconded, carried 4/0 to authorize the Village Attorney to work on reviewing CRC’s proposed amendments to Village Code Chapters 34 (Parking), 43 (Signs & Billboards), 46 (Trees & Vegetation).

It was noted, however, that past Village Attorneys Leone and Mayer likely each did some preliminary review of such since the chapters have been in the works for some time. The Board does not wish Village Attorney Leni to duplicate attorney work that may have already been done.

It was also noted that Chapter 34 should proceed without delay, as NYSDOT was the impetus for some of the changes and a citizen proposed the concept of parking permits approximately a year ago.

It was further noted that a lot of work seems to be considered outside the cap / retainer. The Board said they would be interested in a more detailed breakdown from the Village Attorney as to what the retainer includes.

VILLAGE BOARD REPORTS:

- Mayor M. Connie Castañeda
 - 211 Waiver – Mayor Castañeda reported that Police Chief Daniel P. Varrenti’s 211 waiver application and certification of canvas materials were submitted to NYS Civil Service today.
 - Fire at Allen’s Plant on State Street – Mayor Castañeda commended the Fire Department for doing a good job with knocking down the fire at the Allen’s Plant last Sunday. The business was open and running on Monday.
 - Smith Street Bridge – Mayor Castañeda reported that according to NYS DOT, the Smith Street Bridge rehab is nearing completion and will re-open to traffic by the end of the day Friday.
 - Military & Community Appreciation Day – Mayor Castañeda encouraged attendance at the Noon – 4pm June 11th event to be held at the Brockport Area Vets Club. It is sponsored by the Stetson Club, the Brockport Area Veterans Club and the Ladies Auxiliary Post 379.
 - American Red Cross Blood Donations – Mayor Castañeda said she will copy the Board on a letter from the American Red Cross about ways to encourage blood donations through September 11th.
 - Flowers in the Downtown Historic Commercial District – Mayor Castañeda thanked all those involved in flowers for the Downtown Historic Commercial District including Brockport Merchants Association, Village Board members, and community members.
- Trustee / Deputy Mayor Daniel P. Kuhn
 - Seymour Library – Deputy Mayor Kuhn said there is a personnel item for executive session at the end of the meeting.
 - Fire Protection – Deputy Mayor Kuhn read the following prepared statement into the record:

Readers of this week’s Suburban News or Democrat and Chronicle no doubt saw the letter placed by the other three Trustees regarding fire protection.

Put aside for a moment that this essay contained much of the same content that was in the previous letter our attorney advised us not to send to the Towns.

The real problem with this essay is that it represents the most recent in a long line of actions taken by these three Trustees in violation of New York’s Open Meetings Law. These Trustees regularly create and publish both policy and opinion out of the eyes of the citizens of Brockport.

I had an informative conversation this afternoon with Robert Freeman, Executive Director of the New York Department of State’s Committee on Open Government. I was able to locate and discuss with Mr. Freeman at least three recent official interpretations of the law, published by the Committee, that are applicable to the frequent actions and statements made by the three Trustees outside of a public meeting.

First, opinion #3732. In that opinion, the majority of a Town Planning Board, 4 of 7 members, signed and sent a letter to a party, stating that they disagreed with a position taken by the Town Attorney. The other members of the Board were not privy to the letter before it was sent, nor were they invited to sign the letter. In that case, the Committee on Open Government stated that, “the process by which the four members of the Board constructively took action” was “inconsistent with law”.

Next, in opinion #3899, a similar situation, the Committee stated that a public body may not take action as a majority through “telephone, or via email, for example, or by means of the members signing a letter at different times.”

In many of the Committee’s opinions, the Committee relies on cases from the New York courts. One in particular, the Cheevers case, focuses on a Board who, outside of the public eye, held “serial” conversations in which a majority of the Board decided on

Meetings Law.

The Open Meetings Law is intended to provide the public with the right to observe the performance of public officials in their deliberations. That intent cannot be realized if members of a public body conduct public business by phone, mail, or email, or by signing a letter at different times.

- Trustee Kent R. Blair
 - Monroe Ambulance – Trustee Blair said on June 6th he submitted recommendations for the lease agreement with Monroe Ambulance at the Market Street fire hall to the Board and Village Attorney. This is now in the hands of the Mayor and Attorney to write up and meet with Monroe Ambulance officials. The recommendations are as follows:
 - Based on \$13 per foot (going rate for commercial space
 - Roughly 160 square foot of space used equates to \$2,080
 - Multiple storage cabinets and space outside the building for one Ambulance \$260
 - Use of Internet access, phone, cable, utilities and electric \$360
 - Total yearly fee of \$2,700

Mayor Castañeda shared that she asked for a meeting late Friday afternoon, but Monroe Ambulance officials are not available. She will have Clerk Morelli contact them to schedule a meeting for her, Fire Chief Henry and Monroe Ambulance officials next week. She will copy in Trustee Blair in case he wishes to join the meeting.

- Dispatchers - Trustee Blair shared that local dispatch ceased 5/31/11 and transferred to 911. He thanked the many part time dispatchers for many years of faithful service.
- Fire at Allen’s Plant at 180 State Street – Trustee Blair said on Sunday, June 5th the Brockport Fire Department had a 2 alarm fire at 180 State Street. As always the firefighters responded and extinguished the fire rather quickly. Many thanks to all that put their lives on the line every day for us.

Trustee Blair said at that same fire Mayor Castañeda was at the fire scene and supposedly was making rather rude and unprofessional remarks about the majority of the Village Board. He said he received notification from the scene that this was taking place. He said he immediately emailed the Mayor the following:

Mayor – I was notified that you were at the fire and publicly bashing the majority of the Board about the Fire Department. I want to give you this opportunity to explain yourself to the Board and also give you time to come up with an explanation of your actions. Yet, another example of double standards.

Trustee Blair said he never received a response.

Mayor Castañeda said she did not owe Trustee Blair an explanation. He was not there. She said if a citizen asks her a question, she answers truthfully. She said she is sorry if that is upsetting. She said she has had concerns as well. She learned that Trustees Blair and Hunsinger brought along Trustee candidate Margay Blackman to a meeting they had as liaisons regarding the Fire Department / Fire District. She said gossip travels fast and you can decide to be a part of it or not.

- Village Manager/Treasurer position – Trustee Blair read the following prepared statement into the record.

This position is one of the most important positions in the Village. This person will oversee the day to day operations of the Village and ultimately run the Village. The interview process should be a rigorous plan to find the perfect candidate that the entire Board can agree to. In recent rants in the Suburban News the Mayor has publicly complained that she is not in the majority of the Board and complains of the process.

Majority Rule Democracy is defined in Webster’s Encyclopedic Dictionary as: Government by the people; a form of government in which the supreme power is vested in the people and exercised by them either directly or through their elected agents... a state of society characterized by nominal equality of rights and privileges.

What is left out of the dictionary definition of democracy is what constitutes “the people”. In practice, democracy is governed by its most popularly understood principle: majority rule. Namely, the side with the most votes wins, whether it is an election, a legislative bill, a contract

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proposal to a union, or a shareholder motion in a corporation. The majority (or in some cases plurality) vote decides. Thus, when it is said that “the people have spoken” or the “people’s will should be respected”, the people are generally expressed through its majority.

Let me take you all through the past couple of weeks.

On May 26th I emailed Wade Beltramo of NYCOM in reference to the interview process for Village Manager because at our last meeting our Village Attorney stated we potentially could be in violation of the Open Meetings Law if the entire Village Board met to conduct interviews, thus the Mayor, Deputy Mayor and Treasurer would be conducting the interviews.

His response:

Trustee Blair,

I apologize for the delay in responding to your email. This isn’t really an Open Meetings Law issue from what I can tell. If I am understanding correctly, your question is may the Mayor interview the candidates for the position of village manager without the entire Board being present or may the Mayor prevent the other members of the Board from attending the interview? The Board of Trustees may not compel the Mayor to allow them to attend the Mayor’s interview of the candidate. However, there is nothing that prevents the Village’s Board of Trustees from also conducting an interview in addition to the mayor’s separate interview, with a majority of the board present, such interview may occur in an Executive Session of the Board (see OML Opinions 2424 and 3271).

I hope that this is helpful. If you have any questions or would like to discuss this matter further, do not hesitate to drop me an email or give me a call.

On June 1st we received the following from Clerk Morelli:

Checked with Mayor Castañeda.

The Search Committee (she, Dan, Mary Beth) reviewed all 33 applications that were received by the 5/25 application deadline & have selected 6 to interview.

Interviews of 3 are later today. Interviews of 3 are late Friday.

Mayor has not authorized the release of resumes or evaluations to VB.

A hiring recommendation will be brought forth for VB consideration at the 6/8 meeting.

On June 2nd received the following e-mail from NYCOM:

I apologize for the delay in responding to your email. Because the Trustees have a say in hiring/appointing the Village Manager as well, I’m confused as to why you can’t request a copy of the candidates’ resumes. The Board isn’t required to approve an appointment or hiring of the Village Manager without examining their credentials. Regarding the evaluation process, that is up to the Board (I’m assuming that the position is “exempt” for purposes of civil service). The Mayor may conduct his/her own evaluation separate from the Board, but the Board is not bound by the Mayor’s evaluation. Does this make sense? For purposes of efficiency, village boards and mayors generally work together to vet and interview applicants for the position of Village Manager. Is the Mayor taking the position that she is going to appoint a Manager and the Board can take it or leave it?

After a few emails we received the following on Friday, June 3rd from Clerk Morelli:

Good Morning & Happy Friday Board –

Mayor Castañeda asked me to check with you to see if you are able to meet at 6:15pm on Wednesday, June 8th (before the 7pm VB meeting). It would be in executive session to interview the finalist(s) for the Village Manager/Treasurer position. Please reply today. Thank you.

On June 3rd I received the following email from the Mayor:

I appreciate your interest in the selection of the Village Manager/Treasurer. I would like to remind you that according to Village Code Chapter 32A Article I; 32A-2 "The Village Manager shall be appointed by the Mayor, subject to the approval of the Board of Trustees."

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We have interviewed three candidates to date and have two more to interview. We have just learned that one of the candidates asked to reschedule. We will try to accommodate the candidate prior to our Board meeting. (Cut a portion out)

The interview in executive session will consist of only the applicant(s) I am bringing forth for appointment. I will have Clerk Morelli provide you with the resumes of anyone that will be meeting with you in executive session as soon as that is decided. Two members of our Board have been or will be present for the interview. Trustee Hunsinger will be out of town so the only individuals that will be meeting the candidate(s) for the first time will be Trustee Hannan and Trustee Blair.

I will be prepared to present my selected candidate at the meeting on June 8th. The Board will have to vote on that recommendation in open session that evening.

As of Monday, June 6th at 8am I stopped in to the office to pick up the resumes and they were not in my mailbox. I sent the following e-mail:

As of this morning – I have not received any resumes. I will not be able to stop at village hall tomorrow and the meeting is Wednesday. You have not allowed us ample time to review anything.

This is not acceptable and I will not be prepared to vote on the unknown.

As stated by NYCOM – the board has the right to interview these candidates – you are abusing your power and obstructing the board to perform our job.

On Monday June 6th at 4:03pm the Board received the following email from Clerk Morelli:

Village Board –

Mayor Castañeda just authorized me to hard copy you on the resumes of the 6 applicants that the Search Committee (she, Deputy Mayor Kuhn, Treasurer Lovejoy) selected as finalists (not to scan & e-mail them).

1 of the 6 finalists withdrew from consideration prior to being interviewed.

They will be in your mailbox at Village Hall to pick up after 4:30pm.

As you can see this entire process was difficult at best. To hire the most important position in the village and to have the process be a fight is not in the best interest of anyone.

I forwarded this to our village attorney and his response was on June 6th:

I had a long talk with Wade about this today and we were both on the same page – there's no question that you can interview in executive session to avoid any open meeting issue but it's a separate question whether the Mayor can be compelled legally to release the applications. I looked into it and so did Wade but there's no legal authority to compel the release. If you're going to review some or all of the finalists in executive session, however, then certainly it makes sense to have the applications in advance and on that premise the Mayor agreed to release the applications of the finalists.

- Trustee Carol L. Hannan
 - Village Manager/Treasurer position – Trustee Hannan said she concurs with Trustee Blair that the selection process has been deficient.
 - Flowers in the Historic Downtown Commercial District – Trustee Hannan thanked the merchants, Board, and volunteers as well as a special thanks to Officer Winant who transported the flowers in his truck.
 - Code Enforcement – Trustee Hannan said she is very pleased thus far with the Code Enforcement Office being aligned more closely with the Police Department. Code

violations are being better identified and appropriate actions are being taken.

- SUNY – Trustee Hannan said she had nothing to report.
- DPW – Trustee Hannan commended DPW Superintendent Donahue and Clerk Baker for the work in identifying the types and sizes of water meters needed and drafting up specifications in preparation to go out to bid for radio read meters. Once purchased

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and installed, they will save personnel time in reading and inputting data.

- Monroe Ambulance – Trustee Hannan said she is glad the lease matter is being worked on.
- Trustee Scott W. Hunsinger (excused)

EXECUTIVE SESSION:

- At 7:35pm, Trustee Blair moved, Deputy Mayor Kuhn seconded, carried 4/0 that the Board of Trustees of the Village of Brockport enter into executive session to discuss a personnel matter involving the Seymour Library. Clerk Morelli was invited to sit in.
- At 7:59pm, Trustee Blair moved, Trustee Hannan seconded, carried 4/0 that the Board of Trustees of the Village of Brockport re-enter the regular meeting.

ADJOURNMENT:

- At 7:59pm, Deputy Mayor Kuhn moved, Trustee Hannan seconded, carried 4/0 that the meeting be adjourned.

Leslie Ann Morelli, Village Clerk