

**VILLAGE OF WALDEN  
BOARD OF TRUSTEES MEETING  
SEPTEMBER 13, 2005**

Mayor Becky Pearson called the regular meeting of the Village of Walden Board of Trustees to order at 6:30pm.

On roll call the following were:

Present:	Mayor	Becky Pearson
	Deputy Mayor	Mary Ellen Matise
	Trustees	Roy Wynkoop
		Richard Hurd
		Jose DeJesus
		Lauren Keator

Absent:	Trustee	Mary Jean Norman
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Also Present:	James Politi, Village Manager
	Nancy Mitchell, Village Clerk
	Kevin Dowd, Village Attorney

Approval of Minutes

Trustee Wynkoop moved to adopt the minutes of August 9<sup>th</sup>, 2005. Seconded by Trustee Hurd

The following corrections were discussed, Page 3, 10<sup>th</sup> paragraph, change match to max; Page 6, last paragraph, change to Trustee Norman moved to adjourn.

Trustee Wynkoop amended his motion to adopt the minutes of August 9<sup>th</sup>, 2005. All ayes. Minutes adopted.

Trustee Hurd moved to adopt the minutes of August 23, 2005. Seconded by Trustee Keator.

Trustee DeJesus made the following correction to the August 23, 2005 minutes, change to Trustee DeJesus moved to adopt Resolution No. 05-05-06.

Trustee Hurd amended his motion to include the correction. All ayes. Minutes adopted.

**Presentations**

Mayor Pearson presented Richard Penney and Mathew Siruchek with plaques for achieving the Boys Scout of Americas' highest award, Eagle Scout.

### **Change Order of Agenda**

Trustee DeJesus stated that because of the number of items on the agenda he moved to limit public comments to 30 minutes at beginning of meeting and 30 minutes at the end of the meeting. Seconded by Trustee Keator.

Mayor Pearson stated that the Board hasn't met in a month and she feels they are here for the public and here to do this job and because it may run late she doesn't understand why the public has to not have the input they would like to have. There aren't a lot of people here tonight.

On roll call Trustees Keator, DeJesus, Hurd and Wynkoop voted yes. Deputy Mayor Maise and Mayor Pearson voted no. Motion carried.

Trustee DeJesus moved to change the order of the agenda; Village Manager Form of Government first, Village Historian second and Nugent and Haeussler third. Seconded by Trustee Keator. All ayes. Motion carried

### **Village Manager Form of Government**

Mr. Robert McEvoy, Professor at SUNY Albany and Rockefeller College explained to the Board how the Village Manager form of government was formed. Mr. McEvoy indicated that he did read the Village's local law and it's very clear that the local law establishes a council/manager form. The law is very clear to him that it follows the exception where if you already had a local law before the new legislation that your local law remains in place and that the new law was not intended to change, especially if adopted by referendum which was done.

Trustee DeJesus stated that one of the confusions that the Board had is the issue of the adoption of the referendum that took place in 1972 and the lingering question is whether or not that referendum grandfathered in the existing local law as it pertains to the Village Manager or whether the new system that was approved later on should have been in place. It really goes to the conflict of what role does the Mayor play over and what role does the Village Manager play.

Mayor Pearson stated that when she was first elected and she was reading the NYCOM book which states the Mayor does this, this and this and then when you come to the Board and it doesn't happen that way because you're not acting under 4-400 we are acting under Article 15A from 1962. We should probably have had a referendum to stay; once it changes from 15A to 4-400 would you've not had to have a referendum to stay with Article 15A.

Mr. McEvoy indicated that since what you had before was adopted first and reaffirmed by referendum, so it's a local law with mandatory referendum that general state law, normally he'd never seen one change that. It would change things for the future perhaps. He saw the exception in the law which indicated that this is not intended to change existing laws that were adopted by referendum or laws that have permissive referendum. Both were done by referendum so it was quite significant.

Mayor Pearson asked, in 1972 we were still acting under Article 15A and then the State institutes a new law 4-400 which took effect in September of 1972. We are still acting under the management form of government, but did we not need to have another referendum in order to stay under Article 15A, shouldn't we have gone to 4-400. We do not need a referendum to stay under Article 15A?

Mr. McEvoy stated that what it says is this chapter shall not be deemed to repeal or otherwise affect the provisions of any special or local law, we did a local law, or ordinance of any county, city or village charter or other special form of government it being the intention of the (unauditable), that the same shall continue in full force and effect until and unless otherwise duly amended. Meaning the only time you change that law is when you change it, not the State. You would have to change your own local law, the two you adopted earlier, to change your local government.

Mayor Pearson asked if they also sent him Monticello's judicial decision.

Mr. McEvoy stated that it doesn't tell him enough to look at it. He has to see the exact case as to what they were challenging.

Mayor Pearson stated that it is appointments. The decision was that they were supposed to be acting under 4-400.

Mr. McEvoy stated that maybe it was a different time frame.

Mr. Dowd stated that there was nothing in the Monticello case that was laid out by the court as far as what Monticello did or did not do in 1954 when they adopted the village manager form of government. When you read the case you really don't know what happened and why the court is looking at it differently. The language of the Village Law and the exception to the Village Law says everything was in place and left in place. He read the case many times and he doesn't know factually what happened. We don't know what Monticello did in 1954. The population of Walden first instituted and then upheld the Village Manager form of government. This Board in 1980 did recodification for local laws that further codified the powers of the manager and the Board verses that of the Mayor.

Deputy Mayor Matise stated that in the State of New York the information that she received is there are about 40 villages that have the Village Manager form of government. Part of the issue is an issue of confusion, because with so few villages that are following this form of government we're more the exception than the rule when you

do anything intergovernmental, when you do any advocacy, when you talk to the state, because they assume that you're following the current village law.

Mr. McEvoy stated that there are 60 villages with village manager form of government.

Deputy Mayor Matisse stated that in terms of all the Villages in New York State it's very small. It doesn't help us function.

Trustee Hurd indicated that the Village has functioned well for 40+ years.

Deputy Mayor Matisse stated that whenever she asks somebody something they give her information and then she has to turn around and say that doesn't apply here.

Trustee DeJesus stated that the issue here is the issue of appointments when we reorganized when it came to the appointment of attorney. When Becky and Mary Ellen went to the NYCOM conference they came with different information which said the Mayor gets to appoint the attorney and other employees. Our charter says different, the Village Board.

Mayor Pearson asked if the Board waives that right once the past Mayor appoints the attorney three years in a row.

Mr. McEvoy stated that whatever that law says is it, word, by word, by word. The only way to change it is to bring it to the Board and have a vote. It might require a referendum.

### **Village Historian Presentation**

Suzanne Isaksen, Village Historian congratulated the Village for the recent passage of the Comprehensive Plan and explained the Certified Local Government Program which responsibilities would be: to enforce the local historic preservation legislations; maintain qualified historic preservation review commission; maintain a system for the survey and inventory of historic properties coordinated with and complementary to the survey activities of the SHPO; to provide for adequate public participation in the historic preservation program; to actively participate in the process of nomination properties to the State and National Registers of Historic Places; and to submit an annual historic preservation report. The benefits are to preserve your unique character. There are grants for this program. Some examples of eligible projects are local resource surveys, (this is the inventory that was recommended in the comprehensive plan), national register nominations, preservation training for municipal officials, public education, planning studies and or publications. She strongly urged the Board to adopt this legislation, because as the comprehensive plan points out there is a need to protect and preserve these assets that are part of Walden's unique character.

Trustee DeJesus asked if this would have overriding authority over Planning and Zoning Boards.

Ms. Isaksen stated yes, but they also work with them.

Trustee Hurd asked if it would be correct in saying this commission has policing powers and can confiscate the rights of a homeowner or building owner by simply saying we designate this as worthy of being on a historical something or other and that's it.

Ms. Isaksen stated that the commission will designate properties. These may come before the Village Board. There is always a public review process and during that time the public and property owner can discuss their concerns.

Trustee Hurd stated that right now if you want your home on the historic register, you can apply for it, but it is voluntary. He has a problem setting up a commission that can tell a private owner of property what they can or cannot do based on someone else's ideas of whether it's historical or worthy.

Ms. Isaksen stated that she was here when the Village Board voted for the comprehensive plan, but on Chapter 10, Page 2, it states the Village Board is encouraged to establish committees to help implement recommended actions within this plan, members from the historical society and other interested parties should follow the recommendations of Section 9.7 of this report and including an update of the Villages historic resources inventory pursuant to historic district designation where appropriate. If historic districts are designated in the future the Village should consider creating a historic commission to oversee such activities.

Trustee Hurd stated that he answers to the taxpayers because he is elected by them, but a commission doesn't.

Trustee DeJesus asked if he had a historic house and the commission can just come up with a list and they want to designate this house a historic preservation site. If he says that is my property and he doesn't want them to do that, what happens.

Ms. Isaksen stated that it would depend on the local legislation and how the Board drafted it. Generally the commission is charged with protecting these assets and if you deem these assets important to the community then if it's part of the district the property owner would be required to comply. She apologized because she thought that when the Board adopted the comprehensive plan they took it seriously.

Trustee Wynkoop stated that he has a problem telling people what they have to do with their home.

Trustee Hurd stated that to have an inventory of what we actually have is a great idea. Then we might go to the individual owners and ask if they would be interested. Then maybe the Village could find funds for them to become a part of it.

Trustee DeJesus stated that he feels there has to be a financial incentive. He would like to see the list of properties. He would like to see the group of people brought together and give them the same information so they understand. He asked about the requirements for staffing and budget.

Ms. Isaksen stated that's part of what the grant is for.

Mayor Pearson indicated that usually volunteers would do that,

Trustee DeJesus stated that staff can prepare the reports. It depends on how the law is drafted. He suggested the Village Manager and Historian visit other communities such as New Paltz and get information on how they are managing this. He would also like people who have an interest in the project to come to a meeting

Ms. Isaksen indicated that the Village can develop their own law.

Trustee DeJesus stated that the Village has an Architectural Review Board and he asked how does this compare to that and how do we strengthen that. He suggested the Village start inventorying properties.

Mayor Pearson stated that the Town Supervisor called her regarding inventory of historic properties, including the Village of Walden. They are looking for funding which was asked from the Manager and Mayor before she was elected. It would cost the Village a lot less if we do our own survey.

Trustee Wynkoop stated that he has no problem with that. He doesn't think you should tell somebody that they are going to do.

Trustee Keator stated that to set up a district is one thing, but to put an individual homeowner in that situation she doesn't agree.

Deputy Mayor Matisse stated that if we don't chose to follow a mechanism that has been set up by the State then she feels it's the Village's responsibility to find someway to help homeowners to protect architectural treasurers.

## **Audit**

William Trainor from Nugent and Haeussler explained the audit procedures and Gasb34.

After a lengthy discussion Trustee Hurd moved to approve the audit proposal from Nugent and Haessler with a maximum cost of \$18,000. Seconded by Trustee DeJesus. All ayes. Motion carried.

## **Public Comment**

Marla Landsmen, Wallkill addressed the Board regarding the Walden Elementary School Playground Committee's fund raising project to raise funds for new playground equipment.

Dave Sperry asked about the retention pond at Jacob's Ridge.

Manager Politi advised him that the engineer is looking at the entire project.

Mr. Sperry advised the Board that there are dead trees on Ulster Avenue between Albany Avenue and the Catholic School.

Mr. Edwards, DPW Supervisor indicated that the State was trimming those trees today.

Mr. Sperry asked about the garbage collection contract.

Manager Politi stated that the Village will be going out to bid for garbage pick up.

Mr. Sperry suggested the Village do their own garbage pick up. The Village of Montgomery saved a lot of money doing their own.

Deputy Mayor Matise suggested the Board hold a meeting to discuss possibilities. She asked the manager to make inquiries to other villages. She also asked if the county tipping fees were going up.

Marcus Millspaugh asked about the water report that the Village Engineer was going to look at. He also expressed his concern with paper streets and asked the Board to do something about them.

Mr. Dowd explained that these old streets that have no tax map parcels so they're not being taxed. One reason they don't have tax map parcels is because if developers build a street and they can't dedicate it and they walk away from it then it is taken for taxes by the County. Then you would be stuck as to who will take care of the road and you can take it by eminent domain proceedings. The property owners that abut the paper streets can begin proceedings under the real property tax law to take it over.

Richard Parsak, 35 Main Street explained that his tenants were moving out because of the new parking regulations.

Mayor Pearson advised him that his tenants can park in the municipal lot after 6pm. Maple Street and Oak Street lots are not being timed.

Gary Sweeney, 33 Orange Avenue explained his concern with the way the parking spaces on Grant Street were designed, if they were smaller you could get more cars parked on the street.

Manager Politi stated that he goes by DOT regulations which is 22'x 9'; otherwise it would be too tight.

Mayor Pearson suggested not to stripe it at all, just use signage.

Mayor Pearson, Trustees Hurd, Wynkoop and Manager Politi will meet with Mr. Sweeney on Grant Street Friday at 3pm.

Mary Huber, 55 Main Street stated that she wanted to attend the public forum on September 8, 2005 at Walden Elementary, but as a handicapped person there was no access to the meeting.

### **Audited Bills**

Trustee Hurd moved to pay the audited bills of September 13, 2005. Seconded by Trustee Keator.

Mayor Pearson questioned the bill for W.S. Locating, Village Engineer and the bill for the Soap Box Derby.

Manager Politi stated that the bill for the Soap Box Derby was paid for by the donations from Jim Smith Chevrolet.

All ayes. Motion carried.

### **Introductory Local Law I-1 of 2005, "Vehicles and Traffic"**

Manager Politi reviewed the parking restrictions. It was determined that Ciardullo Printing did not need the loading zone on Saturdays.

Trustee DeJesus pointed out a handicapped parking spot that is no longer needed on Orchard Street.

Mayor Pearson asked if there is a schedule for street sweeping.

Manager Politi stated that the sweeper was out all summer since it was repaired.

Deputy Mayor Matisse asked about the handicapped parking space on Walnut Street as to if it's needed.

Trustee Keator introduced Introductory Local Law I-1 of 2005, "Vehicles and Traffic" and set a public hearing for September 27, 2005 at 6:30pm. Seconded by Trustee Wynkoop. All ayes. Motion carried.

### **Utopian Place Bond Reduction Request**

Manager Politi indicated that the developer for Utopian Place Extension has requested a Performance Bond reduction, based on the items of infrastructure satisfactorily completed. The engineer has recommended that the bond for this project be reduced to \$115,000

Trustee Hurd moved to approve the bond reduction for Utopian Place extension to \$115,000. Seconded by Trustee DeJesus. All ayes with the exception of Trustee Keator voting no. Motion carried.

### **Subordination Agreement – 42 Maple Street**

Trustee Hurd moved to approve the subordination agreement for 42 Maple Street. Seconded by Trustee Wynkoop. All ayes. Motion carried.

### **Senior Citizen Appropriations**

Mayor Pearson asked what adult recreation is considered.

John Howland that is for senior citizen recreation.

Mayor Pearson stated that the Village Board in Montgomery may be selling the Wesley Hall building. She asked what will happen to that senior citizen program.

Mr. Howland indicated that they will be building a new building in the park.

Deputy Mayor Matisse asked if Montgomery charges the seniors to go to the programs at Wesley Hall.

Mr. Howland stated only if they go on a trip.

Mayor Pearson stated that this is getting back to the \$1,000 the seniors are asking for. She has looked into the Ambulance Corp building for the senior meetings. There is a question about storage.

Mr. Howland stated that the Village shouldn't be paying rent or giving the senior money unless we have a contract, because they are incorporated.

Deputy Mayor Matisse indicated that she doesn't think they are incorporated and when she asked if they had liability insurance they said no. This should be looked at further.

This was tabled.

### **Orange County Tax Defer. For Military Service**

Mayor Pearson stated that this would authorize the extension of real property tax collection for persons deployed by the military. In order for the county to administer this option uniformly and for all benefits of the patriot plan to be available to those service men and women who may be affected, each town, village and school district would need to enact its own resolution.

Trustee Hurd moved to adopt a resolution in favor of the extension of real property tax collection for persons deployed by the military. Seconded by Trustee Keator. All ayes. Motion carried.

### **Curfew for Review**

Mayor Pearson asked what the Board's feelings were after the meeting on September 8<sup>th</sup>.

Trustee Hurd felt that the meeting was very beneficial and some good ideas came out of it.

Trustee Wynkoop stated that he will be attending the meetings the school has.

Trustee Keator stated that there were some ideas that came out of the meeting that she hadn't thought of. It was 50/50.

Trustee Wynkoop stated that people shouldn't have to be afraid to go to Hess or the Mobil Station.

Mr. Dowd asked for a consensus of the Board because the Mayor has asked him to do some extensive work.

Trustee Hurd suggested a dedicated youth officer to start dealing with the problem. He would rather try to address the problem.

Trustee Wynkoop stated that when you go on line to look up information regarding curfews the Civil Liberty's Union has ads from one end to the other and they are willing to represent you.

Deputy Mayor Matise stated that another thing that came out from the meeting is that it's not just at night.

Mayor Pearson stated that it was pretty even. Some people want a curfew because they don't know of any other solution. She liked the Dispute Resolution Center because they talked about other programs.

Deputy Mayor Matise stated that she would like to see the Dispute Resolution Center involved with the Police Department and the truant officer because they know the kids and parents.

Mayor Pearson stated that she got an anonymous letter stating that there was a committee formed before in the Village with the community involved.

Trustee DeJesus stated that the Village has a parks and recreation department we need a youth bureau, not the police. He doesn't feel a curfew will work. He has gotten comments from people in the community that there are a lot of girls hanging around the police cars when they are parked. He's looking for a fresh face to work with these kids.

Mayor Pearson stated that she has gotten complaints that the police are telling the kids to move along because so and so complained.

Mayor Pearson asked the Board if they want the Village Attorney to gather information regarding if anything has been repealed.

Trustees Hurd, DeJesus, Keator and Deputy Mayor Matisse indicated that they do not want a curfew. Mayor Pearson voted yes.

Mayor Pearson asked if the Board wanted to have a separate meeting with the community and officials.

It was unanimous to have the meeting.

Mayor Pearson indicated that she has the list of people that want to be involved and she would like a letter to go out to them. The meeting was scheduled for October 5, 2005 at 7pm with the Board, Police Chief, Jaime, Dispute Resolution people, Carol Chichester and the public that wanted to be on the committee.

### **Public Comment on Discussion Items**

Mr. Sperry complained about how late the public comment period started.

### **Informational & Village Manager's Report**

Manager Politi stated that in the Board's packet is information on the playground committee and the restoration of the Orange Blossom statue. Col. Bradley gave the money for this statue.

Deputy Mayor Matisse stated that Spencer McLaughlin of Monroe has been trying to get the county to put money in the budget to repair the Orange Blossoms statue. She is distributing a petition. She asked that a letter of support be sent.

The Board agreed that a letter of support be sent.

Manager Politi advised the Board that the ad is out for the DPW Superintendent.

The Manager also advised the Board that the tiles have been replaced in the Municipal Building hallways. The fire escape has been painted and the entrance to the library will be done.

Mayor Pearson stated that she was hoping that would include the staircases and she would like to help with colors.

### **Correspondence**

Mayor Pearson stated that correspondence was received from Nancy Mitchell and Anita Vandermark. She put them in the Board's boxes.

### **Board Comments**

Trustee DeJesus stated that a while back it was mentioned that the station wagons were not safe to use.

Manager Politi stated that the brown one is a little shaky, the blue one is okay.

Trustee DeJesus asked to have the roll of honor hung on the wall.

Deputy Mayor Matise asked if the clock and the picture of Col. Bradley could also be hung.

Trustee Keator stated that she noticed a sign at 44 Ulster Avenue for daycare. Also, on the corner of Capron and Elberton there is a big bump. There is a house in that area that is overgrown with grass and weeds

Trustee DeJesus stated that Winum has a big piece of equipment parked on the boulevard.

Deputy Mayor Matise stated that there is a rail trail meeting September 19 at the Town Hall. Rick Penny will be doing NIMS training for the Board. She called the assessors office regarding the 10% reduction of taxes for firemen. They still haven't gotten the forms from the State.

Trustee Hurd asked about the band stand.

Manager Politi stated that it's out to bid.

Trustee Wynkoop stated that someone parks his motorcycle on the sidewalk on Ulster Avenue. He does have a driveway.

Trustee Hurd stated that NUBS is parking motorcycles on the sidewalk too.

Mayor Pearson stated that she will speak to the Town Supervisor regarding the historic survey. She asked about multi family housing.

Manager Politi stated that he will have the building inspector back in.

Mayor Pearson asked where the Village stood on Ulster Avenue construction.

Manager Politi stated that they are trying to clarify all the retaining walls.

Mayor Pearson asked to have a discussion on garbage collection and snow removal. She also stated that there are two grants the Village can go for, open space grant of \$55,000.

Manager Politi explained that in getting the \$55,000 grant for the land purchase, the county is going to have part ownership of the land.

Mayor Pearson stated that she was advised that it was written in the grant that way.

Manager Politi stated that they are getting more information on that.

Mr. Dowd stated that he would not feel right that the county would own our well field land. He has no problem we take it to make sure there is a provision in the deed that says it's for municipal water purposes only and we can not sell it for developmental purposes. He has been talking back and forth with the county attorney.

The Mayor asked that the grant application be reviewed.

## **Adjournment**

Trustee Keator moved to adjourn. Seconded by Trustee Wynkoop. All ayes. Meeting adjourned at 11:56pm.

Respectfully submitted,

Nancy Mitchell  
Village Clerk