

**Village of Walden
Board of Trustees Meeting
October 9, 2007**

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:

Mayor	Becky Pearson
Deputy Mayor	Mary Ellen Matisse
Trustees	Mary Jean Norman
	Richard Hurd
	Roy Wynkoop
	Edmond Leonard

Absent:	Trustee	Jose DeJesus
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Also Present:	James C. Politi, Village Manager
	Victoria Kurtz, Deputy Village Clerk
	Kevin Dowd, Village Attorney

Approval of Minutes

Trustee Leonard moved to approve the minutes of September 25, 2007 with the following corrections:

Deputy Mayor Matisse asked for clarification on Page 2, sixth paragraph, on the amount Mr. Barnes stated that we were applying for.

Trustee Leonard asked for clarification on Page 11, 1st paragraph.

Mayor Pearson stated that it should be, would it be wise for the village to lift the rules.

Mayor Pearson asked the manager if he found out the capacity of the skate board park.

Manager Politi stated that he hasn't gotten that yet.

Mayor Pearson asked if the attorney has done anymore on the Central Hudson easement, 100 feet.

Mr. Dowd stated that he has the regulations which he wants to highlight and get to the board.

Mayor Pearson asked about the street lights on Galloway Place.

Manager Politi stated that they were supposed to be hooked up.

Seconded by Trustee Norman.

All ayes. Minutes adopted.

Public Comments

Alice June, 140 South Montgomery Street stated that being senior citizens they go away for the winter and they aren't here for six months out of the year. She received a garbage bill for \$81.45 for October, November and December. They will not be here November and December. They will not be here until some time in April. Last year she did not have to pay for garbage during the winter. She did not request it and she doesn't know why it was done. If it could be done then, why can't it be done now?

Mayor Pearson asked to see the receipt.

Mrs. June also stated that before the village had a contract with the garbage company they would take their garbage to the transfer station and it would cost them \$1.00 a month. She can't understand why she has to pay it now. She asked for a response within a couple weeks.

Mayor Pearson asked Mrs. June if she hasn't received a garbage bill the whole time the garbage has been going on.

Mrs. June stated that she was receiving a bill, but part of the year before and last year she did not receive one.

Manager Politi stated that he will look into this.

Mr. Dowd stated that the board discussed this when they first enacted the garbage regulations, that all residential properties, regardless of who owned them or in it, they had to pay. That is what the contract is based upon. There is no senior citizen discount. There is no way stopping payments when people went to Florida. Also, there was no way of telling when people sold their house whether they sold it to a non senior or the case if a senior went to Florida, but their adult children lived in their house for the winter season. If this was done it was a mistake. They were not entitled to a break nor was there a provision in the code for doing so.

Mrs. June asked why the contract can't be renegotiated.

Mayor Pearson stated that they have addressed that with the manager to look at things again.

Manager Politi stated that it is a per unit price, there are houses that come on. There is a way to add and subtract, but according to the law you can't stop it for that period of time. You would have to renegotiate your contract as well as change your law.

Mayor Pearson asked Mrs. June to get the paperwork and bills to the manager. She further stated that garbage is an ongoing debate with the board. Right now it is in the law that it has to be paid. The board would have to make the decision to change the law. The board can't even waive the fee.

Mrs. June stated that she refuses to pay the bill.

Mayor Pearson indicated that it will go on her taxes.

Mr. Dowd advised Mrs. June to pay the bill, it is a legally imposed fee and if she doesn't pay it will go on her taxes.

Deputy Mayor Matise suggested doing a contract with a six month billing, where the contract will take winter into account.

Manager Politi stated that there will be variations where homes are coming on, so there may be a way to subtract it.

Mayor Person stated that it will be on the agenda again.

Marcus Millspaugh, 10 Jessup Street stated that garbage has been a sore point. He suggested an advisory referendum on the next ballot, to see what the village thinks about it. The village did away with the minimum charge for water and sewer when people are away, so if you can do it for water and sewer you can do it for garbage.

Mrs. June stated that she pays a minimum water and sewer bill.

Mr. Dowd advised Mr. Millspaugh that advisory referendums are not permitted under New York Law.

Pat Moshier, 18 Grove Street stated that she has a problem and she has written to the village and nothing has been done. She has return receipts. There is a business at the top of their street that has an open flowing drain that drains water out onto the street and at times it's very slimy and green. There are huge holes in the street from this. Her grandchildren and the children across the street ride their bikes up and down the street and she is afraid they will get hurt from the huge holes.

The manager stated that he doesn't remember seeing that letter.

Ms. Moshier stated that she sent the letter on August 20th and it was received by the village on August 21st. The water continues to flow and the holes continue to get bigger.

Manager Politi stated that he will find out about the discharge by tomorrow.

John Muehlin, Center Street, Newburgh stated that four weeks ago he received four letters of violations for garbage, no house number, weeds and his dumpster. He had no weeds on his property, no garbage on his property and the building inspector advised him that he doesn't need numbers until he gets a C.O. Four buildings around him do not have number, the bagel shop, has no numbers. His dumpster is clean. The dumpster at the Eagle Hotel two days out of the week it's horrendous with garbage all around it. The bagel shop didn't get a letter on their dumpster. The weeds on Myrna Wolf's property are three feet high and Mr. Penney had to pass that to get to his dumpster. There is a smoker behind the bar and there is a grease spot three feet around on Mr. Agarwal's property. If this isn't straightened out he's going to shut the alley way again and he will get rid of the dumpster and use cans. When he does that they can't have their dumpster. He's just asking to be treated fair. He hopes everyone is treated the same way.

Manager Politi asked Mr. Muehlin for permission to go on his property.

Mr. Muehlin stated any time.

Mayor Pearson asked Mr. Muehlin for copies of the letters.

Mary Neumier, 20 Oak Street stated that there is a problem with the slide at Wooster Grove.

Manager Politi stated that the panel has been changed at least six times. It's a consistent problem.

Audited Bills

Trustee Norman moved to pay the audited bills of October 9, 2007. Seconded by Trustee Hurd. All ayes. Motion carried.

Introductory Local Law I-6 of 2007- "Zoning"

Mr. Dowd indicated that the village did receive a response from the Orange County Department of Planning, which states that it's a matter of local concern, public determination.

Deputy Mayor Matise moved to declare the Board of Trustees lead agency and declare a negative declaration with regard to SEQRA.

Deputy Mayor Matise moved to adopt Local Law No. 6 of 2007, "Zoning". Seconded by Trustee Norman. All ayes. Motion carried.

Bid Award to C.A. Phillips for Well #8 Construction

Trustee Hurd moved to award the bid for Well #8 construction to C.A. Phillips. Seconded by Deputy Mayor Matise. All ayes. Motion carried.

Resolution No. 05-07-08, “Real Property Tax Exemption of Village Owned Property”

Deputy Mayor Matise moved to adopt Resolution No. 05-07-08, “Real Property Tax Exemption of Village Owned Property”, to include the new well site. Seconded by Trustee Hurd. All ayes. Resolution adopted.

Village Owned Vehicle Use

Manager Politi stated that this subject would be an executive session discussion under personnel.

Mr. Dowd stated that it would be a public decision, but the discussion that they would have, because there is a personnel issue and a personal contract in which the individual, who is the village manager has exclusive use of a village owned vehicle. He suggested they go into executive session and make the decision publicly.

Deputy Mayor Matise asked if IRS guidelines would be a personnel issue.

Mr. Dowd stated no, but use of the vehicle and the policy around the use of the vehicle does reflect directly upon the village manager’s contract. There is no one else that has the same benefit then the village manager.

Mayor Pearson asked about the person from DPW that takes the truck home.

Manager Politi stated that it doesn’t apply.

Mayor Pearson asked if it applies to unmarked vehicles.

Mr. Dowd stated that there is no contract that he understands is the same as the village manager’s contract. If you give the police chief a vehicle to take to his home which is in the village, he’s on call 24 hours a day, which is a village function.

Deputy Mayor Matise stated that is spelled out in the IRS guidelines. That would be all you’re discussing.

Mr. Dowd stated that he agrees that IRS guidelines are not personnel issues, but if you start relating them specifically to the benefit and contract the village manager has then you’re getting close to a personnel issue.

Manager Politi requested they go into executive session after the work session items.

36 Overlook Terrace – Rear Drainage Easement

Manager Politi stated that in the back of 36 Overlook Terrace there is an open trench, a swale, which is part of the construction of Jacobs Ridge. The property owner is asking for permission to put a pipe in it and covering it over to level the ground. He will also place a catch basin on the lower corner and connecting it into an existing catch basin. The manager found out that on this property the owner wants to run his footing drains to that line. He doesn't know what water problem he is having. That information went to the village attorney and village engineer.

Mr. Dowd stated that the diagram the board has in their packet is the original request by the homeowner which was to put a pipe in the existing drainage ditch so he could cover it over and therefore have more backyard.

Deputy Mayor Matise asked if that would encroach in the village easement.

Mr. Dowd stated that it is a village easement now and he wants permission to put the pipe in the village easement which is where the drainage ditch is so he could cover it over. The village doesn't own it; we have control of the easement. It's still his property, but we have an easement over it to maintain the drainage pattern. If he puts the pipe in we must maintain the pipe. That was the original plan, then he got a little more elaborate, and what he was talking about doing was, he has French drains or some sort of footing drains and or off his roof, he was then proposing to run those pipes from his property into the storm drain we were going to put in the drainage ditch as well as running it out to the village catch basin. He spoke to the village engineer as to whether this works and whether there will be any potential problems with the neighbors. His concern was that we are not going to maintain his entire drainage system; these are his pipes getting water away from his house. We are required to monitor and maintain anything in the drainage easements. His question is what happens if his drains clog or blocks the water or his flow is greater than anticipated into now our easement. He was told that the way the property slopes it would not run to the neighbors, it would run to the villages storm drain in the street. He asked the engineer to show him and the board that this will not affect the neighbors, as far as backups, and he needs to know how this will be maintained, because we do not want to accept all the responsibility to maintain his drains around his house. According to the engineering there are no engineering concerns about this as far as excessive rains and water coming off the roof. The issue was what happens when something happens in the pipes on the private property that affects the easement responsibility.

Deputy Mayor Matise stated that sediment could build up on the pipe.

Mr. Dowd stated that if you let him do this it would be your responsibility and or have other arrangements on how this is going to be maintained properly. He needs the board's approval to alter what was in the village's easement.

It was the consensus of the board to table this.

Real Property Tax Exemption for Cold War Veterans

Mr. Dowd stated that this is a tax exemption for veterans who were honorably discharged and who served between September 1945 to December 1991. It is optional to the municipality if they want to offer that exemption and they should do so by local law.

It was the consensus of the board to table this.

Maple Street Park Update

Manager Politi stated that in speaking to Karin Rouge from Land Trust and Kevin Sumner from Orange County Soil, going back and forth about the boat launch and what we have now. The new plan was to get away from that walkway where you could back your vehicle up with your car top boats. Taking what was built and at the end of that putting a small pier or deck at the end, which would be a viewing area. So, going back and forth with the \$6,000 grant, they came up with a concept that with the money available we could build this with our in kind. The pier would be at the end of the stone walkway.

Mayor Pearson stated that she would like to see more facing the river.

Manager Politi stated that you don't want to put concrete piers in the water. If you build it along the river front you may not be able to get that far out to get the view you're looking for. They are working on seeing how far they can cantilever it out.

Mayor Pearson stated that it would be prettier to have the 20 feet going along the river and then if we ever get the walkway then you would connect each end.

Manager Politi asked the board if they were okay with the concept.

Trustee Hurd asked if they would consider at five by forty.

Manager Politi stated that he will look at it to see it along the river.

Trustee Leonard asked if there were any issues with DEC with putting this along the river.

Manager Politi stated no, because you already have a permit for that work.

Garbage Collection Request

Mayor Pearson stated that there is a request from Stefan Bojsiuk to be put into the garbage program.

Mr. Dowd stated that when the board discussed this they discussed the reason why certain commercial property had somehow found their way into our residential garbage program. We knew that the former manager authorized or unauthorized some or partial commercial properties into the garbage system. That along with the fact that they were trying to capture more residential properties into the system is why they made the change. The change they made clearly stated that no property that has a commercial aspect to it, whether it is Main Street or anywhere else in the village is not in the village collection system, they are only collecting residential garbage. The request that is before the board is to keep in the system a partially commercial property and that would be in violation of your most recent amendment to the law. There is no waiver in the law. Unless they change the law again there is no legal way of granting the request. You don't know how much commercial garbage is getting into your residential system. A business is taking advantage of a residential rate. When this program was started it was intended to have a residential rate and a commercial rate. They never did anything with the commercial, we only did residential yet somehow properties found their way in.

Mayor Pearson asked how many letters went out.

Manager Politi stated maybe a dozen. The board was trying to achieve a purely residential pick up.

Mayor Pearson stated that one of the reasons why the law was originally done was to eliminate all the garbage companies coming in on different days of the week.

Mr. Dowd stated that there was a garbage pick up problem with people who were not having any pickup, so this guaranteed them a source for their garbage.

Trustee Leonard stated that the board also rezoned or replaced the mx, retail with residential over top, so we need to find a way out of there.

Trustee Hurd stated that the law is doing what the board intended for it to do.

Mayor Pearson stated that she would like the garbage program put on the agenda for a work session and discuss this further.

Deputy Mayor Matise indicated that she would like information from the garbage company in terms of what's possible.

Mr. Dowd stated that you have to understand that this property has a podiatrist with an apartment above. To put them in the district what happens if the property changes hands and becomes a restaurant or deli, then what do you do.

Deputy Mayor Matise asked if that could be dealt with when they go before the planning board.

Mr. Dowd stated that they might not have to go before the planning board.

Trustee Hurd stated that this is not based on volume of garbage.

Deputy Mayor Matise stated that she doesn't know if the garbage company is basing the cost on number of units, because they have a history of tonnage year by year and she thinks that is what they are basing it on.

Mr. Dowd stated that if you start mixing commercial and residential mixed properties than that number is going to change. Once you open it up legally to a podiatrist on Main Street you have to let them all in.

Mayor Pearson stated that she would like to know how many letters went out for the commercial part of it. It would be nice to have a representative from the garbage company at the meeting.

Executive Session

Leonard moved to hold an executive session pursuant to 105-(f), personnel, manager's contract as it relates to a certain vehicle and the position of superintendent of public works. Seconded by Trustee Hurd. All ayes. Motion carried.

Trustee Norman moved to reconvene the regular meeting. Seconded by Trustee Wynkoop. All ayes. Meeting reconvened.

Public Comments Discussion Items

No comments.

Correspondence

Chamber of Commerce fall dinner, October 17, 2007 6pm at Winding Hills Golf Club.

Masonic Lodge dinner/dance will be October 27th if anyone is interested.

Chamber of Commerce ribbon cutting will be October 19, 2007, 11am at 30 Scott's Corners Drive, Montgomery.

New York Conference of Mayors workshop regarding dealing with neglected vacant and abandoned properties workshop will be October 30, 2007 8:30am to 11:00 am in Poughkeepsie.

Correspondence was received from Time Warner Cable regarding the basic fee.

Mr. Dowd advised the board that they have no control of the rates.

Trustee Leonard stated that they are looking at all the villages and are looking at one meeting a month.

Mayor Pearson stated that it would be a joint meeting with our planning and zoning boards. She advised the board members that the meeting will start earlier at the next meeting and have a joint board meeting and the person from the town, Economic Development Committee will come and chat.

Manager Politi suggested they come in at 6:30pm and have the regular meeting start later. He also stated that the web guy would like to come in and show the board how to use their email. He would like him to come in for 15 minutes.

Mayor Pearson suggested those that can come at 6:15pm.

Manager's Reports

Manager Politi stated that the board has the department head reports.

Mayor Pearson stated that she would like to know when the project is started and the amounts of where we are to date, what we got the grant for and how much we've spent so far.

Manager Politi stated that he will provide the board with that information. He will restructure the whole cost side.

Trustee Leonard stated that this is a good start and he'd like to see it on the web site.

Manager Politi stated that he spoke to the board about the awards dinner, email and photo use. He gave the board information on the trailer.

Mayor Pearson asked about the police department report about money spent and a contract we had, she asked if we tried to recoup monies. Do we have to pay for someone else's mistake even though we signed a contract?

Manager Politi stated that he stated just what the mayor said and he is looking into this.

Mayor Pearson questioned the Police Chief's car report, asking what's happening to old car 5.

Manager Politi stated that there will be a new car five and the old car 5 will be surplus and sold.

Board Comments

(Extremely hard to hear and someone was shuffling papers) Trustee Leonard stated that she would like two more members. He was very impressed with the results. The Montgomery Economic Advisory meeting went very well.

Deputy Mayor Matisse stated that as many board members as possible should attend the NYCOM conference. She was talking with Wade Veltromo today and he said you should go into this committee with a plan in mind as to what the village wants.

Trustee Leonard stated that they expect to make zoning changes and he thinks the village should try to get the zoning change they are after on Route 52. The corridor rezoning overlay is on the web site, which is 17 and 208.

Deputy Mayor Matisse stated that she also found interesting about the meeting is he is making up all these marketing sheets which are based on marketing sheets that RJ Smith uses.

Mayor Pearson asked the manager if he's gotten inquiries from businesses that want to know buildings.

Manager Politi stated that a lot that you get from the Orange County Partnership they are looking for 200,000/300,000 square feet.

Trustee Leonard stated that Beazer dug up the street for water and sewer which is very rough. He talked to the attorney about having them pave that before they shut down. Right now they're not selling any houses. It looks like it could be a long time before there's a final coat on it. The attorney said to have Mr. Fitzsimmons have them do that before they leave.

Mayor Pearson asked who plows that street.

Mr. Dowd stated that the village plows the village street.

Trustee Leonard asked the attorney to go over the buffer law.

Mr. Dowd stated that the approval from the Planning Board clearly created a non disturbance buffer area ten feet wide on most of the properties that back up to Mr. Kantonah's property as well as the other properties. It was a requirement that they file a declaration of restrictive covenant. They did do that and it clearly says there were only certain things you could do in the buffer and one is take down dead material and if you take down a dead tree you must replace it in kind with a certain height tree and you not allowed to do anything in that area. So if there was clear cutting going on that can be enforced by either Beazer, any of the other lots in the subdivision and/or the village.

Trustee Leonard stated that two property owners cleared their back yard and another built a pool and clear cut theirs.

Mayor Pearson asked what you do.

Mr. Dowd stated that you would put them on notice that they are in violation of the restrictive covenant. Part of the problem is that when Beazer did what they were suppose to do they filed a declaration of restrictive covenant that is binding upon the all the successor owners, but they may not have put in the individual deeds to the property that same restriction. However, if the declaration was properly filed with the county clerk and it's on the subdivision map then on the title reports it would show that. The title to that property is subject to those restrictive covenants. We would put them on notice that they violated and we want them to restore the property by planting trees in that area. If they refuse to then we can go to court. The court we go to will not be the local justice court, because the local justice court cannot force them to do what we want them to do, which is take the pool out and put the trees back in, you have to go to thhe supreme court to get an injunction against them to make them restore the buffer areas. That would be a significant cost to enforce that. Otherwise, the only ones that can enforce that are the other homeowners in the subdivision itself or Beazer.

Trustee Leonard stated that if we don't do anything the other ones will follow suit. The building inspector sent them all letters.

Mayor Pearson asked if it was after the pool went in.

Mr. Dowd stated that a letter should go to the people who violated stating that you have violated the restrictive covenant and we demand you restore the buffer area and give them a time period.

Deputy Mayor Matisse asked the manager if the Orange Environment Seniority happen.

Manager Politi stated yes.

Deputy Mayor Matisse congratulated the manager for starting four farmers' markets. She also asked about dumpsters, the Walden Federal's dumpster on Oak Street has anything been done with their dumpster and has anything been said about the graffiti all over their dumpster.

Manager Politi stated that they have gotten letters.

Deputy Mayor Matisse stated that Waste Management should be asked to replace the dumpster because the village is trying to do away with graffiti.

Deputy Mayor Matisse asked it anything has been done with the barbecues at Olley Park.

Manager Politi stated that he told Mr. Howland about it.

Deputy Mayor Matise asked that a barrel be found for the trash can at Pine Street.

Trustee Norman stated that there is a car on North Montgomery Street that is sitting on the front yard with no license plate.

Deputy Village Clerk Kurtz stated that they got a letter.

Trustee Norman stated that the seniors have asked her about getting an exercise class going.

Mayor Pearson stated that Mr. Howland told her that there is time between noon and 2:00 pm before the other group comes in.

Trustee Norman stated that Mr. Lamendola and Mr. Bliss are doing a good job on the haunted house. They need help carving pumpkins on October 26th at 10:00 am. She also stated that Friends of the Recreation met and they are getting their miniature houses planned.

Mayor Pearson asked the manager to look into replacing some garbage cans. She is also concerned about Hidden View Drive. She asked if the issues with Hidden View Drive were taken care of.

Manager Politi stated yes. There are punch list items they have to do before the pave Galloway.

Mayor Pearson stated that she went past Mr. Steinberg's property on First Street, it's still a development site and there are no silt fences, there is a whole cliff that could come down. It's where the third house is to go. She asked if the village is done with the McKinley pump station.

Manager Politi stated that he has to go see what the final site looks like.

Mayor Pearson asked Mr. Dowd if he's heard anything regarding the joint meeting for the annexation.

Mr. Dowd stated that he's tried to contact the town attorney and has had no response.

Mayor Pearson asked about the lights on the bridge.

Manager Politi stated that he's heard nothing.

Mayor Pearson stated that he spoke to the chief and DPW about Aire Court, there have been issues with the kids.

Manager Politi stated that he will have the sweeper and police up there.

Mr. Dowd stated that a week from next Wednesday right after the Planning Board meeting he will be doing the first two hour training session for the zoning and planning boards on SEQRA.

Manager Politi stated that the Code Enforcement Officer gave him a list of the property owners that were noticed regarding Village Code Chapter 47, Section 3, notifying them that they have not complied and asking the Village Board to hold a hearing.

Mr. Dowd stated that he will prepare the resolution finding them in violation and set the public hearing.

Deputy Mayor Matisse asked if any actions or follow ups been done after the street meetings.

Manager Politi stated yes, they are developing letters.

Deputy Mayor Matisse asked if they could have a report before the next meeting.

Manager Politi stated yes.

Executive Session

Trustee Norman moved to hold an executive session pursuant to 105-(f), Personnel, Parks Department employees, of the Public Officers Law. Seconded by Deputy Mayor Matisse. All ayes. Motion carried.

Trustee Hurd moved to reconvene the regular meeting. Seconded by Trustee Norman. All ayes. Meeting reconvened.

Adjournment

Trustee Norman moved to adjourn. Seconded by Trustee Leonard. All ayes. Meeting adjourned.

Respectfully submitted,

Nancy Mitchell
Village Clerk