

**BOARD OF TRUSTEES
VILLAGE OF WARWICK
MAY 21, 2018**

7871

The regular bi-monthly meeting of the Board of Trustees of the Village of Warwick was held on Monday, May 21, 2018 at 7:30 p.m. in Village Hall, 77 Main Street, Warwick, NY. Present were: Mayor, Michael J. Newhard, Trustees: Barry Cheney, Eileen Patterson and George McManus. Trustee Lindberg was absent. Also present were: Village Clerk, Raina Abramson, Village Attorney, Stephen Gaba, DPW Supervisor, Michael Moser and Village Engineer, David Getz. Also present were: Planning Board Chairman, George Aulen and Planning Board Members: Jim Patterson, Jesse Gallo, Karl Scheible, and Kerry Boland. Planning Board Member Bill Olsen was absent. Others present: Lt. John Rader, James Goff, Kathy Gerstner, Katie Bisaro, David Griegs, Elizabeth Knight Moss, Roger Moss, Dan Burger, Bill Greene, Payton Swenson and Nancy Reinauer, and others.

The Mayor called the meeting to order and led in the Pledge of Allegiance.

The Clerk held the roll call.

Joint Public Hearing with the Village Board and the Planning Board on the Special Use Application and Site Plan for the Solar PV Project for Warwick Valley BBA, LLC located at 28 Church Street.

The Clerk read the Public Hearing notice.

The Mayor opened the Public Hearing to the floor.

Nancy Reinauer: I live adjacent to the property and I'm curious about what the name is and what kind of company that is, BBA?

Trustee Patterson: BBA is actually just part of his...

Trustee Cheney: It's an LLC according to Mr. Getz's letter.

Nancy Reinauer: What do they do?

George Aulen: Do you really want to know? It's Bob's Big Adventure.

Trustee Patterson: But that doesn't answer the question as to what kind of business it is.

Nancy Reinauer: Is this the tomato...

Trustee Patterson: Yes, it's the Warwick Tomatoes but, we're all looking at each other because we think it's funny that he named his company Bob's Big Adventure instead of DBA.

Nancy Reinauer: Ok, so this is the tomato experiment.

Mayor Newhard: Yes, and as you know it as the Georgia Pacific plant, which is right behind your home on Church St. Extension and the plan, the desire, is to use the rooftop for solar panels.

Nancy Reinauer: Great.

Mayor Newhard: And it has gone through both Boards actually on some level before the Public Hearing, but it also has gone through the Architectural Review Board because there was a concern that it was going to be visually pronounced and so the applicant worked with the ARB in that matter.

Nancy Reinauer: Ok, I understand.

Mayor Newhard: Yes, ok. For the person who just walked in the room, we are taking public comment so if you're interested in speaking to the Board, this is the moment on the Public Hearing. Anyone else? Board members?

Trustee Cheney: Yes, one of the special use permit requirements is that if the proposed project's to be leased there has to be legal consent between the parties and I believe that needs to be submitted. Is that the case in this situation?

David Griegs: David Griegs, ERS Consultants. There is a part of the building that is subleased.

Trustee Cheney: No, in reference to this project, the project being the solar application.

David Griegs: Right, no.

David Getz: I will read the written response by the applicant regarding that. "The array will be purchased by Warwick Valley, BBA LLC. There will be no lease agreement."

Mayor Newhard: Ok, great. Another piece of the application is for notification to the Warwick Fire District and we have sent out numerous notices, but we have not received any comments at this point. I just wanted to say that for the record.

Trustee Cheney: The decommissioning plan, as I read it, it is \$40,000 for the decommissioning, is that in 2018 dollars or is that in 2048 dollars?

James Goff: 2018

Trustee Cheney: 2018. And then the other thing that struck me is that you're using less than 25% of the roof surface, yet the way it is oriented you're getting closer to the edges then if it was turned 90 degrees.

David Griegs: Actually, we are using 11% of the roof surface.

Trustee Cheney: But still if it was oriented in a different direction.

David Griegs: It's oriented that way for variety reasons including wind load and structure and sun, obviously sun.

Trustee Cheney: So aesthetically you're going to meet the requirements of the code in that nothing that is up there will protrude above the sightline of somebody on the street.

David Griegs: Correct, there's a parapet up there so if you look at the building from the street you might see a couple of the HVAC units which are almost four feet tall, these units are going to less than about ten inches tall, so you won't even see them over the parapet.

Trustee Cheney: Thank you.

Trustee Patterson: I have two questions, one is I'm interested to hear what questions we asked of the Fire Department because I think one issue that came up ages ago is, would this system allow access if the Fire Department had to come in from the roof? Is it easy access for them to cut through or would you provide a plan to the Fire Department if they needed it?

David Griegs: There is access to the roof and this does not block that access because the units may need to be maintained at some point in time, so it wouldn't work if you couldn't get up on the roof.

Trustee Patterson: No, I'm saying if the Fire Department had to come down through the roof to get...

David Griegs: There is access from the roof down and that's not going to be blocked by these units.

Trustee Patterson: Ok, is that what we were asking the Fire Department? Or you were just looking for feedback from the Fire Department?

George Aulen: Well, our concern was to be able to shut off the power if they had to go up there and we weren't sure if that would be done or if would be a simple method to do it for the Fire Department. What we would like to see is the Fire Department to agree with us.

Trustee Patterson: Right, ok. Is there a battery system attached to the...no, it's just direct? Ok. And are there any trees that are going to come down as a result of the installation?

James Goff: No.

Trustee Patterson: I don't have any other questions. Thank you.

Mayor Newhard: Board, do you have any questions for the applicant?

George Aulen: No, we did a rather thorough review earlier and again, I don't think we have anything. Do you have anything, Jesse?

Jesse Gallo: I do not.

George Aulen: Everything was explained to us very carefully in our meeting.

Mayor Newhard: Ok. Well this will be the first large solar project in the Village so that I think is a very exciting to see. We definitely have always been very positive, one of the pioneers in terms of creating solar permitting in New York State, so this works with us and I think that they've done the due diligence in terms of the ARB and working with the environmental engineer and working with our engineer as well.

George Aulen: He did an excellent job, like they indicated it's only 11% of the roof size and there's a lot of access there and the safety, margin of safety items are there. Our concern again was with the Fire Department, if someone goes up there, can they shut the power off, so they don't get... and we were assured there was a switch or some mechanism there and that it could be done.

Trustee McManus: I would assume the solar guy could answer that question.

Trustee Patterson: He did.

James Goff: Lotus Solar. There are two ways of shutting it off, you can either pull the main disconnect to the building or there's actually a big black switch and it says solar disconnect, and you can switch it off.

Mayor Newhard: That's great.

George Aulen: That's what Bob explained it to us earlier in our meeting. He was not in our meeting.

Mayor Newhard: Ok. Gentleman, ok.

Trustee Patterson: Do we hold the Public Hearing open or at least the approval open until we do get that letter from the Fire Department? I think their nod is an important part of the process.

Mayor Newhard: Yes, I agree but Board, do you want to...

Trustee McManus: We've sent them, you've said, several requests and they don't respond.

Mayor Newhard: I believe three requests.

David Griegs: Our original request was back on February 6.

Trustee Cheney: Of 2018?

David Griegs: Yes.

Lt. John Rader: I can make sure that something is done right away.

Mayor Newhard: Ok. Mr. Rader is connected to the Fire Department, so he will be able to get us a response.

Trustee Patterson: Do you anything, John, for that?

Lt. John Rader: If I do I will reach out to Maureen.

Trustee Patterson: Ok, great.

Mayor Newhard: Can we make the motion conditional as to the response?

Stephen Gaba: Which motion?

Mayor Newhard: It's a resolution.

Stephen Gaba: You want to do the approval?

Mayor Newhard: Yes.

Stephen Gaba: Alright, what do you want to do in terms of the Public Hearing? Do you want to close it?

Mayor Newhard: I was about to close it.

Stephen Gaba: Ok, that's fine then and then you'll make the resolution conditional upon getting a favorable report from the Fire Department. That's fine.

Closing of Joint Public Hearing by the Village Board on the Special Use Application and Site Plan for the Solar PV Project for Warwick Valley BBA, LLC located at 28 Church Street.

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to close the Public Hearing. Four Ayes

Stephen Gaba: The Planning Board since it is a Joint Public Hearing should also make a motion to close the Public Hearing.

Closing of Joint Public Hearing by the Planning Board on the Special Use Application and Site Plan for the Solar PV Project for Warwick Valley BBA, LLC located at 28 Church Street.

A **MOTION** was made by Planning Board Member Jim Patterson, seconded by Planning Board Member Karl Scheible and carried to close the Public Hearing. Four Ayes

Acceptance of Minutes

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to accept the Minutes of May 1, 2018. Four Ayes

Acceptance of Reports

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to accept Reports: Justice (April 2018). Four Ayes

Authorization to pay all Approved and Audited Bills

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to authorize to pay all Approved and Audited Bills in the amount of \$173, 361.16. Four Ayes

George Aulen: Michael do you need us?

Mayor Newhard: No, we don't.

George Aulen: Ok, thanks.

Trustee Patterson: Do they have to do their resolution Steve?

Stephen Gaba: They do, but they should do it at their own meeting. They shouldn't do it at this meeting. This was just a Joint Public Hearing, not a joint meeting.

Mayor Newhard: George, did you hear what Mr. Gaba said? He said that you will have to make a motion or resolution at your own meeting.

George Aulen: Yes, I will not make a motion or a resolution without my attorney.

Mayor Newhard: Right, absolutely. Ok, thank you.

George Aulen: Thank you.

Presentation

1. Elizabeth Knight – Too Good to Toss Recap

Elizabeth Knight Moss thanked the Village Board for providing the tent, tables and chairs for the Too Good to Toss event on April 22, 2018. Providing the tents and the tables allowed the event to take in many more donated items because they did not have to worry about inclement weather. The number of items brought to the event overflowed the two tents, all the tables, under the tables, over the basketball court, and the green perimeter that led up to the basketball court fence. People were in line on Sunday, April 22 at 6:00 a.m. waiting to get in. Many people who attended the 2017 Too Good to Toss event returned for this year's event as well. This year's 2018 event brought in approximately three times the donations received in 2017.

Elizabeth estimated that approximately one thousand people came to 'shop' for free the day of the event and they had an overwhelming number of volunteers. Elizabeth Knight Moss also stated that she believed that we are setting an example as the Queen Village for everybody else by holding such a successful event.

Payton Swenson explained how she saw the value in this event for people to share their unused items that they may not be willing to part with. Through emails, phone calls, Instagram, and Facebook the event had eighty volunteers sign up between both Saturday, April 21 and Sunday, April 22. Volunteers were able to walk away with free items.

Bill Greene reiterated that local residents from both the Town of Warwick and the Village of Warwick made up the majority of people who participated in both the donation of items on Saturday, April 21st and the free 'shopping' event on Sunday, April 22nd.

Roger Moss expressed the great deal of organization that was needed to put on an event for one thousand people over two days. He stated that last year the event had twelve volunteers, and this year that number increased to eighty. Roger felt that because Too Good to Toss was so well received, that next year there will be a demand for even more space. He explained that the organizers of the event have started a tradition that they would like to continue. Roger asked DPW Supervisor, Mike Moser, if the way the organizers conducted things on Monday morning held up to his expectations. Mike Moser said yes and that everything was well organized and the DPW was in and out of the area in less than twenty-five minutes.

Roger Moss also informed the Board that they gave a similar presentation to the Town of Warwick. Roger stated that the organizers of Too Good to Toss feel that it might be time to open the event up to the Town, instead of it just being a Village sponsored event. This idea was pitched to the Town for their consideration for next year; that the Town would be an equal partner with the Village. The organizers asked the Town to place a line item in their budget to

take care of some of the expenses for next year. Roger feels that the event is going to require additional tents next year.

Mayor Newhard thanked Elizabeth, Payton, Bill and Roger and then commented about the Tree Cycle Event. He felt that it was a wonderful event, right across the stream. Mayor Newhard expressed that the way the park was used that day was exactly the way the Village of Warwick imagined it would be used. He was pleased to see how they set up in the green quad and used the gazebo and picnic pavilion for crafts, which was exactly what was dreamt of for the park. Mayor Newhard thanked the organizers of Too Good to Toss for making that dream a reality, because it was the first time that part of the park was used and was it very exciting to see.

Elizabeth Knight Moss felt that the events fit very well together. Sustainable Warwick provided a list of simple things that anybody could do at home to reduce their trash level.

Mayor Newhard expressed that having the restrooms and playground equipment that kids could use was beneficial.

Trustee Patterson felt that adding signs, directing people to park at the school, would be one thing she would suggest for next year.

Elizabeth Knight Moss provided a recap of the Repair Café, stating that seventy-three people participated in the event, with fifty-three people coming from Warwick and the remaining coming from surrounding areas.

Dan Burger commander of the Veterans' of Foreign wars in Warwick explained that he and Elizabeth Knight Moss discussed the possibility of sharing information to the Veteran community about the Too Good to Toss event. Dan stated that he and Elizabeth spoke about the idea that a list of needed items may be put together prior to the event in order to provide Veteran's items that they are in need of.

Announcement

1. Applications for County Executive Arts, Heritage and Tourism Grants

Trustee Cheney: Basically, the County is receiving applications for the County Executives Arts, Heritage and Tourism grants. These are grants that would be awarded up to \$5,000 to individual artists, organizations, venues and municipalities in the County to support artistic, cultural and historical events, projects performances, workshops, classes and displays accessible to the general public that promote tourism related to economic development. The deadline for acceptance of the applications is 3:00 p.m. on June 21, 2018 and they can be delivered to the Orange County Tourism's office which is located at 99 Main Street in the Village of Goshen. Application information and documents are available on the County website at www.orangecountygov.com/artsgrants So, anyone out there that's interested please take a look at

it and if you have any questions you can contact the County Executive's office, or you can contact me.

Trustee Cheney: Are we planning on doing anything?

Mayor Newhard: Yes, I'm sure we will.

Trustee Cheney: We received a grant last year for the Sesquicentennial, correct?

Mayor Newhard: Yes, for Apple Eve.

Trustee Patterson: I think it could apply to our concerts, it's tourism, it's commerce, it's arts, it's all of it right? There's more than one grant, I'm sure it's not just one.

Trustee Cheney: Oh no, there are multiple grants, yes. Multiple grants are available.

Trustee Patterson: I think we should pass this to Linda and see, right?

Mayor Newhard: Yes.

Correspondence

1. Letter from Tara Lambert of 185 West Street requesting Municipal Sewer Service.

Mayor Newhard: That is something that we are going to have our engineer look at because the question is how close that pipe actually is to her residence and the cost that might be involved. It may not just a simple hook up, so I think we should do that investigation prior to us making any comments, at least the Board for now, and she will know because she would be responsible for the costs.

Trustee Patterson: But don't we have a similar situation on the other side of the Village with the residence who are benefitting from extending the pipe out and have subsidized the cost of that and are out of town users?

Mayor Newhard: You mean Colonial Avenue?

Trustee Patterson: Yes.

Trustee Cheney: It's just water I believe. I don't think there are any out of town sewer users.

Trustee Patterson: Yes, but I mean it could be the same process that we would follow and potentially there's...I don't know what the last street on West Street is that's in the Village, I don't know the address of it, but if we reached out to the people between this lady and the end of

the Village there is potential that there could be a greater interest again to subsidize the cost, at no expense to us.

Trustee Cheney: I'm not certain, but I believe this property is the next property outside the Village. The white house next to the blue house.

Trustee Patterson: Well, now I know exactly what you mean...

Trustee Cheney: On the left side of the street heading toward the Village...

Mayor Newhard: I think we'll have our engineer look at this and give us an evaluation.

Trustee Patterson: Definitely, but I just wanted to put that out there as potential for the people between her and...

Trustee McManus: But we would have to also tell the people that they could experience major increases in sewer rates, because of the proposed new plans and they would have to do their homework to see if it's better for them to stay on the septic or to pay all the expenses of coming in the Village.

Trustee Patterson: Right, rather than have this woman go through the expense and then have other people say oh I want to tap in, that's not fair.

2. Letter from Jane Newman of Pioneer Farm wishing to proceed with an outside user agreement for municipal water and sewer.

Mayor Newhard: We are formulating that outside user agreement, correct?

Stephen Gaba: Yes, I have a draft of it. I will just fill in the information particular to this property and I will submit it to the Board to consider. Hopefully you will be in a position to take action on it at your next meeting if that's what you're inclined to do.

Trustee McManus: But again, she should be given the same cost information that, I mean there is no real cost information because we don't have the numbers to it, but the hook up sewer to over there and the whatever the new out of the Village sewer rates are going to be to help pay for the plans, it may not be beneficial to her.

Mayor Newhard: Right, because it's going to be a long and extended period of time that that rate will be...

Trustee McManus: Right.

Stephen Gaba: Well, you talked about setting an escrow amount for it, you can at the time you advise her about the escrow would be, advise her that she would want to look into the costs as

well. I don't know that you want to have your Village engineer do that, but you know, that's your decision.

Mayor Newhard: No.

Trustee McManus: No unless she wants to pay our Village engineers rate.

Stephen Gaba: Exactly. So, like I said set the escrow and advise her that if she wants to submit and go forward but be aware it's going to be more costly than a private well. I don't think it's going to be an issue with her. I think she's going to want to do it anyway, but we'll see.

Mayor Newhard: Ok.

Discussion

1. Use of Village of Warwick Parks.

Mayor Newhard: Steve you gave us some opinions on that and what has happened is we've gotten one request by a person who would like to do a yoga series at one of our parks and so the question that was given to our counsel was, can we do that? It's a municipal park, can we have a paid function going on? And yes, you can. Do you want to give us a summary?

Stephen Gaba: Yes, sure. Parks are special, they are not like other public space. Parks can only be used for park purposes which is essentially recreation, community events, and the like. When you are going to have someone come in and do a commercial activity, something they are going to charge for, as opposed to something that's sponsored by your rec department, then it's appropriate for you to issue a license, a revocable license, for them. You cannot lease the property, not without special legislation from Albany, park property that is and it's also appropriate that they provide you with insurance because they are going to be in the park increasing your exposure to claims by virtue of having people congregate for their financial benefit, so if you feel that yoga classes are a park activity, which I would argue they are, I mean any type of recreational activity like that, exercise, classes for improvement what you will, I think would fall under park activity then you should decide on whether or not you want to grant a permit to her and you should require them to submit insurance naming the Village as an additional insured. You do that, and you're set. If you want to keep the business for charging for permits for parks because it's commercial, you could do that, but I don't think the Village has done that in the past. I don't think the ice cream vendor for example...

Mayor Newhard: Well, he has a Peddler's Permit and there is a cost of peddling.

Stephen Gaba: Ok, well this different from peddling.

Mayor Newhard: Yes, but he...

Stephen Gaba: It's the same principle is what I'm saying. So, if you wanted to charge, you certainly could charge. I don't know if I would recommend it.

Mayor Newhard: It does bode another question, and that is that in our local law it says that someone like the ice cream vendor is not allowed.

Stephen Gaba: Yes, but he's a peddler.

Mayor Newhard: No, but and I'm saying, well what I want to say is that he goes, he's there, so if we don't disagree with that kind of activity then I think instead of continually breaking the law we should revisit that local law to make a determination on that because...

Stephen Gaba: Instead of making it a blanket, you could make it a special permit, you could decide...

Trustee Patterson: But this is completely different, this isn't peddling.

Mayor Newhard: No.

Stephen Gaba: No, it's an unrelated issue. Well, if you want me to look into that, I'd be happy to look into that and report back to the Board, but in terms of your yoga instructor, if your so inclined, you need a resolution approving the use of the park, granting a revocable license, that is, and requiring insurance. If you do that, you're set.

Trustee Patterson: So, what's the difference between them just, like anybody else that asks us for a permit to use the park.

Stephen Gaba: Well, the difference is that they're reserving space. Anybody can go into the park if there's somebody else there having a picnic or playing catch or whatever it might be they can't say, 'Hey, move. This is where we're holding the classes at ten o'clock' you grant someone a permit it's going to be for a particular area in the park and it will be reserved for those yoga classes at that time, and if people are there and won't move, she could call the local police and say, 'Hey, I have a license and these people won't move.' Whereas, if you just go in the park, you can't do that.

Trustee Patterson: But, what is Little League and football and lacrosse?

Trustee Cheney: I think we've got a verbal agreement that probably would require us to have a license.

Trustee McManus: What do we do with the people last year who did yoga in the park?

Trustee Patterson: It's been a couple of years, but yeah, I remember there was someone.

Trustee Cheney: I think we denied somebody.

Trustee Patterson: A long time ago.

Trustee McManus: There was somebody who did it for free, which we let them. There was somebody for a fee and we denied the fee.

Trustee Patterson: Right.

Raina Abramson: We actually had three other requests also. There is somebody who wants to do a Stroller Strides class with children and parents all through the parks and then there was a gentleman who was proposing a fund raiser at Stanley Deming Park, a basketball three on three event sometime in August. He was hoping to...

Mayor Newhard: That would be a park permit.

Raina Abramson: But, only a portion of it was going to go to an organization, so there was a question. I don't know where the rest of the proceeds were going to go to or if that would be allowed.

Trustee Patterson: That's different because that's specifically using the equipment. I know I reached out to the Ahearn Organization when we paved the basketball court and put the back stops in and the lights and everything to say, you should have stuff here.

Trustee Cheney: They did, they had a three on three.

Trustee Patterson: I know, so that was really our impetus, it was something we were excited about. As far as strolling through the park, that's kind of a...

Raina Abramson: It's an exercise class. It's like a mommy and me.

Trustee Patterson: Right, but I mean...through the park and on the road too.

Raina Abramson: I would imagine it would be Memorial Park, probably Memorial Park. She didn't give specifics, but she wanted to know. I was a part of one of those when I a young mom also. You need to be on a flat surface, so I can't imagine where they would do it at Stanley Deming.

Trustee Patterson: And they would charge for that?

Raina Abramson: Yes.

Trustee Patterson: Oh, ok.

Raina Abramson: And there was somebody who was similar to a Cross Fit Trainer that was interested also.

Mayor Newhard: Cross Fit uses our park it seems, on a regular basis.

Trustee Patterson: But that's not like a I'm thinking, this yoga, would there be a sign, no. Is there a schedule, like are they going to publish a schedule because the park is there location for having their classes and how...there's other yoga places in town that have to pay for overhead. If a bunch of people decided at some point to get together and do yoga in the park, they could just do it. I don't think they...but if we would be committing to a regular schedule for somebody to run a business in the park, I not comfortable with it. I think they could go to the tree, Emmerich Tree Farm, that's an amazing place. They would have to pay for the space. The cidery, amazing views, outdoor space, but they would have to pay for it. What we're virtually doing is providing their location at no charge and I don't think that's fair to other people. I think we're going to be inundated then.

Mayor Newhard: Well, we could create a permit.

Trustee McManus: But we have a president that we turned down for a fee to the yoga place.

Mayor Newhard: Right.

Trustee Patterson: If it was a fundraiser, it would be different. If it was a one off, Chosun or UMAC having their display on Railroad Green for a fundraiser or a yoga class having something for lady's night out, I'd be ok with it, but I think we're opening ourselves up to a steady flow of scheduling in the park which will ultimately reduce our taxpayers the ability to use the park. I'm just one vote.

Trustee Cheney: That was the concern I had, what happens with the next one and the next one and the next one and then it encroaches on the public use of the park. Its there for the public.

Trustee Patterson: Which if I'm thinking of the same situation you are, that goes back five or six years, right? There was a guy.

Trustee McManus: Could be, yes.

Trustee Patterson: And we had the same, similar discussion and then there was someone who did it at no charge and then that was ok because you are actually then, it does fit into the active uses you would want to have...

Trustee McManus: But there's no set schedule that we were involved in maintaining.

Trustee Patterson: Right and it was no charge.

Trustee McManus: Right.

Trustee Patterson: That would be the only way that I think it's fair.

Trustee McManus: So, I would say no.

Trustee Patterson: Yes, me too.

Mayor Newhard: What if it was a revenue source? What if we did charge them for a permit like we do for a peddler's permit so it's \$300 - \$500 for a season? Just throwing that out there.

Trustee Patterson: I don't think it's a good idea.

Trustee McManus: No.

Trustee Patterson: Because we are going to be inundated with people who are considering starting an exercise business or a yoga studio and, oh, well this is...next thing you know we will have attorney's in the gazebo meeting their clients (laughing). Not you Steve, other attorney's. You have an office.

2. Continued Village water service to the old Hathorn House.

Mayor Newhard: Steve maybe you could give a little, since you were very familiar with this through the legal issues that surrounded this.

Stephen Gaba: Long story short, it is a long story. Back in the 1800s the Village acquired property from the owner, I forget the gentleman's name, for use of the water system.

Trustee Cheney: Pearson Sanford.

Stephen Gaba: As part of the arrangement there was a clause put in the deed that said that in return for granting the property to the Village. An easement was involved as well. Mr. Sanford could have free water. It wasn't real clear what it was meant by that, but twenty years later, forty years later, still in the 1800s, the Village attorney issued an opinion saying that the grant of water rights, ran with the land and was not personal to Mr. Sanford which meant forever and ever you had to give water. About one hundred years later the Village revisited the issue and your attorney said, no, it would make no sense for the Village to give free water to anyone forever. It's personal, it belonged to Mr. Sanford and we should start charging for water but, you didn't so then again thirty years after that, you again asked the Village attorney, did it go with the land or not, and he agreed with the later letter saying, no, it was personal to Sanford, you should start billing for this, and again you didn't bill and an issue came up later on, I don't want to get into it here and now, but it wound up with a lawsuit, Article 78 proceeding brought against the Village and that terminated in a decision by Judge Currier Woods which said that, yes, the water rights

do run with the land, but they are limited to water for a dwelling, residential use and for farm, and if the property is used for anything other than that, there's no right to receive free water from the Village. So now there's a proposal, they are proposing to the town, to develop the property as a restaurant and a bed and breakfast which of course are not farming uses nor are they dwelling, residential dwelling uses. A bed and breakfast is considered a business. So, there's no right to free water and what the present owner would like to know is if they can continue to receive water service under an outside user agreement, under which they would pay for the water.

Trustee Patterson: Will we start to charge them if we do this?

Mayor Newhard: Yes, we will.

Trustee Patterson: That's interesting. Isn't a bed and breakfast, don't they live there? There's no confusion there that a bed and breakfast is also a residence?

Stephen Gaba: Well, a bed and breakfast, even if it's owner occupied, is generally considered a business and the deed was really talking about the gentleman's home at the time and his farm and that's what was complicated but, my advice would be, it's up to you, you could be as harsh or as lenient with these people as you want, but I think the Village should look to start with a clean slate and say we will give you an outside user agreement and you have to figure out what your rates are going to be, but we want a release of any claim to free water under these deeds and just get rid of that.

Mayor Newhard: That's a great idea.

Trustee Patterson: Yes. Who is responsible for the infrastructure between here and there? Is it us?

Stephen Gaba: It is your line to draw water to the Village, however there are laterals which run off those lines which serve the property so you're going to have to figure out who's going to be responsible for what and that should really be part of your outside user agreement. One of the things you could do with an outside user agreement, you just talked about it with sewer, is you can say to the outside user, we'd be happy to give you the agreement, but you have to agree to these infrastructure changes now, I don't know how much water, more water, they are going to be using than they use now. If it's just a restaurant and a bed and breakfast, probably not a heck of a lot more, you know you use it for farm purposes, that means irrigation.

Mayor Newhard: It hasn't been an active farm.

Trustee Patterson: It hasn't been an active farm for years.

Stephen Gaba: Oh, all right.

Trustee Patterson: It's going to be more.

Stephen Gaba: Well the question is do you need to change the size of the mains that are leading to the property and if you don't then really the problem kind of resolves itself. If you do, there's some real interesting engineering issues as far as your water lines go and you're going to need to talk with these people and see who's going to be responsible for what. But at minimum there needs to be an understanding as to what laterals they're going to be responsible for and what your infrastructure to draw water to the Village is.

Trustee Patterson: Interesting.

Mayor Newhard: So, we need to at least give them an indication that we are amenable, but we would want to, I think upfront, put exactly what you said about creating a clean slate.

Stephen Gaba: Right, what I'd be happy to do is draft a letter and for it to come from the Mayor to them and we would circulate it to the Board Members if you have any comments or anything let us know, but other than that...

Trustee Patterson: As long as that's the spirit of it, because it looks like the town is looking for this letter for them to move forward with their application.

Mayor Newhard: That's right.

Stephen Gaba: I don't know that you want to commit to do it though out and out, I mean there are bells and whistles that you may want that you're going to have to talk about with the property owner.

Trustee Patterson: No, I just meant so that we can let the town know that there's work that needs to be done, that it will happen as long as all the t's are crossed, and I's are dotted, just so that it doesn't hold up their process.

Mayor Newhard: Right.

Trustee Patterson: I mean I don't know that it will, but just them knowing.

Mayor Newhard: Well, they would have to dig a well.

Trustee Patterson: No, I mean just like if the town needs to be aware of all the intricacies that we're going to cover with them.

Trustee McManus: Well, I think they should because if we say well, yes, in theory we're going to continue service and then the owner doesn't agree to the demands, so the town definitely needs to know what the restrictions are going to be.

Trustee Patterson: Right.

Mayor Newhard: Yes, I agree that it should be put up front.

Stephen Gaba: Well, you could copy them, copy the town on the letter to the owners, or send a separate letter. It's up to you, the way you want to go. We could certainly work it out.

Mayor Newhard: Ok.

Trustee Patterson: Is it the Planning Board or is this the Town?

Trustee Cheney: It's the Town Board and the memo from Lehman and Getz, it should be noted that they are representing the property owner in this matter.

Trustee Patterson: Oh, interesting.

Trustee Cheney: So, they're not representing the Village.

Mayor Newhard: It was funny because we did have a meeting with the applicant and Lehman and Getz was at the table and Barry and I were looking at each other like, wait.

Trustee Cheney: So, I asked the question.

Trustee Patterson: So, who's our stunt engineer?

Trustee Cheney: Probably Barton and Loguidice. They did the work when we had an application by St. Stephen's.

Privilege of the Floor

(Please limit your comments to **five (5)** minutes. If reading a document, please submit a copy to the Clerk. Please note all remarks must be addressed to the Board as a body and not to individual Board members. Please state your name clearly before speaking). These rules are taken from the Handbook for Village Officials – New York State Conference of Mayors and Municipal Officials.

Motions:

RESOLUTION APPROVING SPECIAL USE PERMIT FOR WARWICK VALLEY BBA, LLC PV SOLAR PROJECT

WHEREAS, Lotus Energy on behalf of Warwick Valley BBA, LLC has applied for a special use permit for installation of a large-scale roof-mounted solar energy system on certain

real property located at 28 Church Street, Warwick, New York and identified on the tax map as Section 208, Block 2, and Lot 3.22; and

WHEREAS, the appropriate referrals to the Village Planning Board, the Architectural and Historic District Review Board and the County Planning Department have all been made; and

WHEREAS, following due notice, the Village Board held a public hearing on May 21, 2018 on the proposed special use permit,

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Village Board finds that the application and site meet or exceed the applicable requirements of Village Code §145-120 and §145-64(D) through (F); and
2. That the Village Board hereby grants the requested special use permit subject to the general conditions imposed in the said Code Sections and contingent upon receipt of a positive response from the Warwick Fire Department.

Trustee Cheney presented the foregoing resolution which was seconded by Trustee Patterson,

The vote on the foregoing resolution was as follows:

| | |
|-----------------------------------|-----|
| Barry Cheney, Trustee, voting | Aye |
| Michael Newhard, Mayor, voting | Aye |
| Eileen Patterson, Trustee, voting | Aye |
| George McManus, Trustee, voting | Aye |

Rescind the Relevy on the Village of Warwick 2018-19 Tax Bills

A **MOTION** was made by Trustee Cheney, seconded by Trustee Patterson and carried to rescind the motion made on May 1, 2018 granting permission to relevy on the Village of Warwick 2018-19 tax bills all unpaid alarm fees and water and sewer fees to properties listed in the attached document, including errors and omissions as per the Village Assessor, with a total relevy amount of \$3,964.75. Four Ayes

Relevy on the Village of Warwick 2018-19 Tax Bills

A **MOTION** was made by Trustee Cheney, seconded by Trustee Patterson and carried to relevy on the Village of Warwick 2018-19 tax bills all unpaid alarm fees, water and sewer fees, and planning and zoning board fees to properties listed in the attached document, including errors and omissions as per the Village Assessor, with a total relevy amount of \$6,454.75. Four Ayes

Discussion:

Trustee McManus: We shouldn't have Planning and Zoning Board fees and bills that have not been paid to be relevied because everybody there should be paying escrow upfront.

Mayor Newhard: I agree. It's been a conversation in house and we're going to take measures so that is what happens but for now they are there, so.

Trustee McManus: We need to straighten that out in the Zoning Department, and the Planning Board Secretary and Clerk immediately, because nobody has anything before the Board that should not have an escrow account.

Mayor Newhard: I agree.

Trustee Patterson: Is 2018-19 or 2017-18.

Trustee McManus: 2018-19.

Raina Abramson: Well they are being relevied onto this tax year, which is 2018-19.

Trustee Patterson: Oh, so they're from last year, that's what I was thinking. They were from last year, but you are relevying them, ok understood.

Electrical Power Supply Bid – East Coast Power & Gas

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus and carried to accept the bid from East Coast Power & Gas for the Electrical Power Supply in the amount of \$0.05968 per kilowatt hour as per the Code Enforcement Officer's recommendation. The contract will be for the period of June 1, 2018 to May 31, 2020. Four Ayes

Natural Gas Supply Bid – M&R Energy Resources Corporation

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus and carried to accept the bid from M&R Energy Resources Corporation for the Natural Gas Supply at the fixed price of \$0.4199 per ccf as per the Code Enforcement Officer's recommendation. The contract will be for the period of June 1, 2018 to May 31, 2020. Four Ayes

On-Call HVAC Bid – Westar Tech Service Corporation

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus and carried to accept the bid from Westar Tech Service Corporation for On-Call HVAC services for the Village of Warwick as per the DPW Supervisor's recommendation. The contract will be for the period of June 1, 2018 to May 31, 2020. Four Ayes

On-Call Plumbing Bid – Westar Tech Service Corporation

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus and carried to accept the bid from Westar Tech Service Corporation for On-Call Plumbing services for the Village of Warwick as per the DPW Supervisor's recommendation. The contract will be for the period of June 1, 2018 to May 31, 2020. Four Ayes

Discussion:

Trustee McManus: Who is our current plumbing supplier?

Mike Moser: Right now? It's Joe Claudio who is finishing up right now. He was from last year.

Trustee McManus: No, Joe Claudio is two years ago.

Trustee Patterson: He came back again.

Mike Moser: Yes, he's the one we used last year, when he showed.

Trustee McManus: So why did we use Pete the Plumber at Stanley Deming?

Mike Moser: It was kind of an emergency situation where we needed to get those bathrooms open and Mr. Claudio hadn't returned phone calls from the last three jobs that I tried to get him on.

Trustee Patterson: That's not this guy?

Trustee McManus: No.

Mike Moser: No, Mr. Claudio didn't even put in a bid this year.

Trustee McManus: Ok.

Trustee Patterson: I have to say that the prevailing wage requirement make it very, very difficult for us to even offer this opportunity to local vendors. They can't, they are small businesses and they cannot afford...I wish there was something...and I feel bad that these people are not even from Warwick. So, it actually is probably not as productive because we're calling in someone in the middle of the night and they're coming from...where are they located?

Mike Moser: Middletown.

Trustee Patterson: Yes, it just makes me sad because we are local goers, and we're proud of that.

Mike Moser: You're going to be sadder about your electrician. He comes from Jersey.

Trustee Patterson: Really, that's a bummer.

On-Call Electrical Services Bid – BRK Enterprises, LLC

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus and carried to accept the bid from BRK Enterprises, LLC for On-Call Electrical services for the Village of Warwick as per the DPW Supervisor's recommendation. The contract will be for the period of June 1, 2018 to May 31, 2020. Four Ayes

Generator Maintenance Services Bid – Ener-G Rudox

A **MOTION** was made by Trustee Cheney, seconded by Trustee Patterson and carried to accept the bid from Ener-G Rudox, Inc. for Generator Maintenance Services for the Village of Warwick as per the DPW Supervisor's recommendation. The contract will be for the period of June 1, 2018 to May 31, 2021. Four Ayes

Seasonal Engineering Intern

A **MOTION** was made by Trustee Cheney, seconded by Trustee McManus and carried to hire Thomas Nafash to the position of seasonal engineering intern at a salary of \$14 an hour at 32.5 hours per week for approximately 12 weeks. Start date to be determined. Four Ayes

Global Bubble Parade Rain Date

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to grant permission to Jessica Harrick from Rhythm and Rhyme Childcare to include the rain date of May 26, 2018 from 1:00 p.m. to 4:00 p.m. to the previously approved Global Bubble Parade event on May 19, 2018. Four Ayes

Treasurer's Request for Budget Transfers

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to approve the Treasurer's request for budget transfers and modifications as per the attached letter. Four Ayes

Park Ave. Elementary School Kindergarten Picnic

A **MOTION** was made by Trustee McManus, seconded by Trustee Cheney and carried to grant permission to Park Avenue Elementary School to use Stanley Deming Park for a kindergarten picnic on May 23, 2018 with a rain date of May 29, 2018 from 9:00 a.m. to 1:00 p.m. Completed park permit, and proof of proper insurance have been received. Security deposit has been waived. Four Ayes

Reports:

Trustee Cheney's Report:

For anyone who travels and doesn't know by now, the Howe Street bridge the County closed the bridge on Tuesday, May 15th and opened the temporary detour connecting River Road to Orchard Street. There work began the same day. I haven't been back since. I would imagine that given the storm the day following, that they have been a little bit distracted, but I would imagine they'd be back to it pretty soon. It is anticipated that the bridge will be complete and reopened to traffic in about three months after the start of construction. Also, the 2017 Annual Water Quality Report is online on the Village website if you desire a paper copy you can contact the Village DPW office at (845) 986-2031 ext. 110 or stop by and one can be provided.

Trustee Patterson's Report:

The Warwick Walks program seems to be moving along swimmingly. And we're waiting, or have we heard from the ARB on the advice about the signs?

Mayor Newhard: I believe we have heard from the ARB.

Trustee Patterson: There's feedback, ok. And then I would also like to comment, because usually you mention this Barry, the mulch pile is it opened and ready for?

Trustee Cheney: Yes.

Trustee Patterson: My gardens at my house, I've used the mulch from the Village mulch pile for the last three years and the soil is so amazingly healthy it's crazy so. Spending money on mulch in my eyes doesn't make sense, especially when you garden like me and you have much less success usually.

Trustee Cheney: And you have two young healthy strong sons who can load the back of the pickup truck.

Trustee Patterson: Yes, I do. Mike if you could just reiterate the bulk pickups.

Mike Moser: The Village of Warwick will begin a bulk pickup of household items. These items include such things as: furniture, mattresses, rugs, etc. The Village is asking residents to place metal items separately for recycling purposes. We will not pick up: garbage, leaves, brush, tires, barrels, paint, drain oil, construction debris, appliances such as refrigerators, washers, dryers, stoves, etc. All items must be placed curbside on the Monday of the week your area is scheduled for pickup 7:00 p.m. Once the area has been picked up there will be no return trips. The Village will be divided into two areas to be picked up:

Week of June 4, 2018

High St, Church St, Forester Ave. north of the Railroad Tracks, Colonial Ave. north side of Grand St. to the Corporation line of Locust St, Maple Ave. and all streets within the area. South Side of West St. to the Corporation line and Division St., Howe St. and all streets within this area to the west side of Oakland Ave. and including Campbell Rd. Pond Hill and areas North of West St. Village Cove residents should contact the homeowner's association as to where to place items.

Week of June 18, 2018

East side of Oakland Ave. to Forester Ave. at the Railroad Tracks to Galloway Rd. on the north side. South side of Galloway Rd., Homestead Village area, Warwick Grove, Hawthorne Ave., Overlook Drive, South Str. Ext., and Southern Lane to the corporation line Brady Rd. Gordon Terrace and Ridgefield Rd. Resident of Warwick Grove and Homestead Village should contact their homeowner's association as to where to place items.

If you have any questions, please call our office at 845-986-2031 Ext 6 between 8:30 AM and 4:00PM.

Trustee McManus' Report:

The Memorial Day Parade on Monday: step off at 11:00 a.m., line up at 10:00 a.m. on Church Street, steps off in front of Village Hall, services will follow at the Warwick Cemetery. The parade will reform and proceed to St. Stephen's Cemetery, services will be performed there, and

then the parade will reform and go down for a final service at the fireman's monument in Memorial Park.

Mayor Newhard: It's a beautiful parade and I must say the Veterans' truly appreciate when people come out so take the time and really be out there for the men and women who have served us so gallantly.

Mayor Newhard's Report:

Yesterday was the grand opening of the Field of Dreams which is out at Wickham Woodlands, not in the Village of course, but an incredible baseball field that is accessible for kids and adults with handicaps and it's a remarkable facility. I was truly blown away. Yesterday was the ribbon cutting. The amount of energy and of course financial support to make this happen has been extraordinary and it's been a dream for many, many, many years so to see it actually alive and working and to see those kids really enjoying the game of baseball was truly amazing.

This weekend was full of events. Of course, yesterday was the famous Duck Derby, which is for Winslow Equine Therapy. And there was a prom, a fundraiser for our own Warwick Playground Dreams who are working towards building an accessible playground in Stanley Deming Park and I was taken that here was a weekend of events and they all really had a focus on creating facilities or activities that are accessible to people with multiple and different types of handicaps. Winslow of course is famous because they were a pioneer in doing that, but I'm just proud to be in a community that really looks at that as part of the vision and I think it's a pretty amazing thing.

Final Comments from the Board:

Stephen Gaba: Were you interested in setting escrow on the Jane Newman matter or are we going to put that over to the next meeting?

Mayor Newhard: I don't see why we can't. If you have a number.

Stephen Gaba: Well, I can give you minimum numbers. I believe both agreements can be brought in on the legal side at least for less than \$1,000. I don't know what you're looking at in terms of your engineering costs is the thing.

Mayor Newhard: Well, I believe that she will be working with the town engineer mostly and our engineer will just be reviewing any plans.

Stephen Gaba: Ok, so \$1,000. But I guess there is sewer as well as water?

Mayor Newhard: Yes.

Stephen Gaba: Alright, so \$1,000 for each I think ought to cover it.

Trustee McManus: I think \$5,000 should cover it. That way we are not chasing anybody down for any fees that are owed to us. We refund everything that is not spent, but we get it upfront.

Trustee Patterson: Well, that is actually not our arrangement. Our arrangement is 80% of the anticipated cost of services that we have to pay for, so we can't react to not having done that, we can't overreact to not having done that on this.

Trustee McManus: We don't know what the anticipated cost of running pipe and all that good stuff.

Trustee Patterson: No, it's the anticipated cost of the pipe, it's the anticipated cost of our counsel which I think is what...

Stephen Gaba: Well, you may want to have your engineer look at this too before you're done.

Trustee Patterson: So that \$1,000 does not include the engineer? Ok. I thought you meant.

Mayor Newhard: I thought what you said was \$1,000 for counsel, \$1,000 for engineer.

Trustee McManus: No, he said \$1,000 for water, \$1,000 for sewer.

Mayor Newhard: Ok, I see. So then...

Stephen Gaba: \$2,500 for each so a total of \$5,000?

Mayor Newhard: Yes, that makes sense.

Stephen Gaba: Alright.

Mayor Newhard: Thank you George for clarifying that. That's good.

Escrow for Jane Newman / Pioneer Farms for Outside Water and Sewer Agreement

A **MOTION** was made by Trustee Cheney, seconded by Trustee Patterson and carried to require that an escrow be established for the Pioneer Farm water and sewer line extension at Carol Drive in the amount of \$5,000. Four Ayes

Adjournment

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to adjourn the meeting at approximately 8:55 p.m. Four Ayes

Raina M. Abramson
Village Clerk