

**BOARD OF TRUSTEES
VILLAGE OF WARWICK
FEBRUARY 6, 2017**

7140

The regular bi-monthly meeting of the Board of Trustees of the Village of Warwick was held on Monday, February 6, 2017. Present were: Deputy Mayor Barry Cheney; Trustees William Lindberg, Eileen Patterson and George McManus. Mayor Newhard was absent. Also present were Deputy Clerk, Barbara Ranieri, Village Attorney, Michael Meth and DPW Supervisor Michael Moser. Others present: Chris Viebrock, Travis Ewald, Joseph Mahoney and several Village residents.

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

The Deputy Clerk held the roll call.

Public Hearing to consider the improvements to and extension of Orchard Street creating a connection to River Street and the realignment of River Street for the Howe Street Bridge Reconstruction Project.

Deputy Mayor Cheney: The first item on the agenda is a Public Hearing, would you please read the notice.

The Deputy Clerk read the Public Notice.

Deputy Mayor Cheney: This Public Hearing is necessary to allow the County to reconstruct the Howe Street Bridge. Just for information purposes there is another Public Hearing that will occur this Wednesday at 11 a.m. upstairs in the court room and that's being hosted by the New York State Department of Transportation and the reason for that hearing is to hear comments relative to the actual railroad grade crossing that would have to occur. With that I open the floor to any comments from the public regarding the proposed connection of Orchard Street to River Street for the purpose of repairing the Howe Street Bridge. Please state your name and your address please.

Bill Steinauer: I live in Greenwood Lake. I'm also the President of the Board of the Community Center on Hamilton Avenue. It is my understanding that what we're considering is that trucks would go on Hamilton Avenue in front of the center. Is that correct?

Deputy Mayor Cheney: That's correct, yes.

Bill Steinauer: I just want to bring up that the center has preschool. It has Acting Out Playhouse. So, there are young kids from the age of two or three on up throughout the day, running in and out. Their parents who are letting their kids off and on that street in front of the center, you have cars on both sides. I just think you should be aware of the possible concerns. Also we plan on the one side of the center is a natural play area. We've been working with the Mayor and others and hope to have that started by next June, so there will be all kinds of activities, again with small kids going in and out.

Deputy Mayor Cheney: We are looking at working with Jones Chemical to try and minimize the impacts that might occur by them accommodating their schedule to some degree that would minimize the impacts.

Dan Mack: I live in that area. What is the estimated number of trucks per day, do you know?

Deputy Mayor Cheney: I don't know off the top of my head. The County is here. Do you happen to know?

Chris Viebrock: Only about a few a day. A small number of trips. Most of their freight is via rail. The trucks are for distribution down to... their biggest clients are in New York City.

Travis Ewald: If you take a look at Howe Street neighborhood, you see that (inaudible) ... general type of street that they're traveling down currently. It's pretty small. It's not like they're used to going through something like 17M. They're used to dealing with a residential area.

Dan Mack: What's the estimated time for the completion of the project?

Chris Viebrock: Our goal is to have it all wrapped up by October... the end of October.

Dan Mack: So it would start soon and go through the summer.

Chris Viebrock: The intent is to have the railroad crossing start in June and by June bridge materials will come and as soon as the crossing is in we mobilize out do the bridge. We switch traffic over to the temporary detour and it's all being constructed by County forces.

Deputy Mayor Cheney: Then it would be approximately July through October that the bypass would be in effect.

Bill Steinauer: A lot of kids going in and out during that time.

Dan Mack: Is there some kind of projection for... now that there's that new kind of route, is that going to be closed off after the Howe Street Bridge... is it going to be blocked off?

Trustee McManus: Yes.

Deputy Mayor Cheney: That's the expectation. It's possible that it could stay as an emergency access. That's something that would be the subject of discussion at the hearing on Wednesday.

Bill Steinauer: It was our understanding that Orchard was going to be considered too narrow. I was just wondering because Hamilton is not wider than Orchard.

Trustee McManus: You wouldn't be able to turn out of Orchard onto Oakland.

Trustee Patterson: If I could just say one thing and we are aware of the impact as Barry said and to work with Jones Chemical and of course the County DPW, but I think it's a good idea to make sure that parents are aware... that parents who are coming to the Community Center are aware that... a lot of parents I think just park on the street real quick and run inside and there are two parking lots there that you might start to ask parents to use.

Trustee McManus: That one side of the street is no parking.

Trustee Patterson: Right, but there's two parking lots.

Trustee McManus: I know but those who tend to park and run in real quick are tending to park on the wrong side... on the no parking side.

Trustee Patterson: We're certainly going to be aware of it and work on it, but there's communication that could come from the Community Center as well to keep parents...

Bill Steinauer: It's just that the time frame where there are going to be even more kids in there, not less with after school programs and so forth.

Dan Mack: It would be helpful if there was a schedule that we could know when the trucks were coming in.

Deputy Mayor Cheney: We're working with Jones Chemical on that. My understanding is most of the trucks leave in the wee hours of the morning. It would have no impact other than possibly if you're sleeping with the windows open.

Trustee McManus: One or two pulls out of River Street or Howe Street about quarter to six in the morning. One comes back in around eight in the morning. I don't see much more throughout the day.

Deputy Mayor Cheney: Any further comments as part of the Public Hearing?

Trustee McManus: You should tell them our real goal is to go out to County Route 1.

Deputy Mayor Cheney: That's something that's still in the planning stages. The Village and the Town have been working with Jones as a cooperative agency to try and get access from the Jones property out to County 1, which would alleviate it going through the Village at all with their trucks.

Dan Mack: Is condemning that land being considered?

Deputy Mayor Cheney: I don't know. I haven't been involved in the details.

Dan Mack: I've talked to both Michaels and...I mean there's a railroad block in the middle...

Deputy Mayor Cheney: We are in the Public Hearing regarding the connection of River Street to Orchard Street if you're interested in that and would like to make any statements or questions now is the time to do that.

Jeannine Dreyhaupt: Is Travis Ewald here?

Deputy Mayor Cheney: Yes.

Jeannine Dreyhaupt: I spoke with him last week on the phone. I'm a homeowner on Orchard Street and when I got this letter I was just surprised that that detour bridge is going to be constructed and my concern would be that it would potentially become a permanent structure and it would become a permanent detour to travel to Orchard Street, especially with festivals going on the Main Street I could see it wouldn't be very heavily trafficked but it would be not a dead end road anymore. I have been assured that it's not allowed to remain; that once it's constructed it's there, why not use it.

Deputy Mayor Cheney: I think that there's a hearing Wednesday at 11 a.m. and that's with the State and the reason the State is having a hearing is to approve that crossing. They are very reluctant as I understand it, to approve new railroad crossings from a safety standpoint. While they may approve this on a temporary basis the expectation is they probably would not entertain anybody's desire to have it permanent.

Trustee Patterson: It's never even really come up at as a permanent option in any of our discussions except the possibility of having it as an emergency access which would be locked... locked gates that only the fire department or emergency services would need access to but that's not a permanent shortcut.

Jeannine Dreyhaupt: But it will be there. Someone would have invested a lot of money and why do you need the road... like changing the corner of Hamilton and Orchard... there will be a lot of money spent here and I can see how a couple years down the road someone could argue, it's there, why don't we use it. I understand that it's not supposed to be used that way but that's just my only concern.

Deputy Mayor Cheney: If the Department of Transportation were to make a decision that it could only be used during this temporary time period, it would then require a future Public Hearing and a lot of involvement and investigation on the part of the DOT to change that.

Dan Mack: What's the scope of this hearing?

Deputy Mayor Cheney: This is to create the roadway that connects Orchard Street to River Street.

Dan Mack: To extend Orchard Street...

Deputy Mayor Cheney: To extend Orchard Street and connect it to River Street, yes.

Dan Mack: It's not about the bridge. It's just about the liability of extending Orchard Street.

Deputy Mayor Cheney: To create the street we have to have a Public Hearing.

Dan Mack: Who pays for that?

Deputy Mayor Cheney: The street will be paid for by the County in order to accommodate them to be able to replace the bridge.

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

Approval of Minutes

A **MOTION** was made by Trustee McManus, seconded by Trustee Lindberg and carried to approve the January 17, 2017 minutes. Four Ayes.

Approved and Audited Bills

A **MOTION** was made by Trustee McManus, seconded by Trustee Lindberg and carried to pay all approved and audited bills in the amount of \$278,111.86. Four Ayes.

Correspondence

Deputy Mayor Cheney: We have a letter from George Aulen, Chairman of the Village of Warwick Planning Board regarding a Petition for Zone Change on 4 Overlook Drive. We also have a letter from New York State Department of Environmental Conservation regarding the Village's application to renew the State Pollution Discharge Environmental System permit. Third we have a letter from Altice USA regarding programming changes. George any comment on that?

Trustee McManus: No, it affects one channel and those will be notified by the company.

Deputy Mayor Cheney: Fourth and final we have a letter from United States Environmental Protection Agency regarding Assessment Monitoring under the next Unregulated Contaminants Monitoring Rule. We won the lottery on that one. We're one of I believe 800 municipalities with a water system serving less than 10,000 people who are going to be basically have our raw water tested to determine if there are any currently unregulated chemicals that they've decided to consider for possible regulation in our raw water. We spoke to the Orange County Health Department and we don't really have an opportunity to decline.

Discussion

Adopt-A-Street Program – document review

Deputy Mayor Cheney: First item on the agenda for discussion is the Adopt-A-Street Program document review. You've got that in your packets. There were a couple of things that I made note of that I wanted us to discuss. One of them was... this is pretty much exactly what the Town's program is but on the second sheet in there is the Volunteer Agreement and Code of Conduct. It's got a number of different policies. Number 11, Eileen could you just check that out to make sure that all those are active policies and are worded correctly. Then, turning over that page about the fifth line down from the top it says recycling is an accepted and encouraged activity. Volunteer groups are responsible for taking recyclable materials to transfer stations. We do have the ability because we collect recyclables at the parks, to put that into the recyclable stream if they are separated from the garbage that gets picked up. I would think we probably want to reword it something to that effect.

Trustee Lindberg: You should have two different colored bags.

Deputy Mayor Cheney: Probably a clear for the recycling and orange for the garbage.

Trustee Patterson: That means we would be providing them with two different bags. It's a good idea.

Deputy Mayor Cheney: I think really the changes that volunteer groups are going to be responsible for separating it into two different bags and the Village will see to it that the materials...

Trustee Patterson: Are you going to ask them to leave it at the park?

Deputy Mayor Cheney: They're supposed to leave it along the road.

Trustee McManus: But the volunteer group would have the option of taking any depositable recyclables themselves, correct?

Deputy Mayor Cheney: I wouldn't see why not. It's even better if it never gets into the recycling stream and they can get a nickel back.

Trustee McManus: So they're just going to be responsible for recycling material but not taking it to the transfer station.

Trustee Lindberg: On the second page on the bottom it says the Village does hereby agree to provide a list of safety rules. Are we going to be training them at all or just rely on them reading this?

Deputy Mayor Cheney: They're going to be reading this... I mean they're going to have to coordinate with the DPW office in order to pick up the vests and materials and the bags and those types of things. There would be some opportunity but they will have all the paperwork and they're supposed to be instructing their volunteers.

Trustee Patterson: As far as the Workplace Violence Prevention Policy, is that what you're asking about? Those rules that we're going to give them paperwork on that?

Deputy Mayor Cheney: I think we provide them with the paperwork.

Trustee Patterson: I just found two typos. There's one spot where you missed Adopt-A-Road on the third page.

Trustee Lindberg: Barry, I know the Town might be different; the section length would be a mile? That might be a stretch.

Deputy Mayor Cheney: That's a good point.

Trustee Lindberg: Especially if they want to do a couple of blocks.

Trustee Patterson: When do we change from calling them sponsors to calling them volunteer groups? On the front it says the sponsor is responsible for contacting the Village DPW... and then on the supporting pages it refers to them as volunteer group.

Deputy Mayor Cheney: I think it should be volunteer group. That might be a remnant of the Town.

Trustee Patterson: Are we going to have to have a DPW person on the job?

Deputy Mayor Cheney: No.

Trustee Patterson: So who are they going to give their cell phone number to?

Deputy Mayor Cheney: That's for after the fact or if we've got it, if there's need for... for instance if the Village... one of us gets a call, DPW Supervisor gets a call... something's not working right, then they have that.

Trustee Lindberg: Does the Town actually collect \$60 for the volunteers to pay for the sign?

Deputy Mayor Cheney: Yes, that's what they do. It doesn't necessarily mean that's what we have to do.

Trustee Lindberg: I would suggest that we think about that.

Trustee Patterson: I feel like if the Town does it and we're a little bit competing with the Town, and that's not a profit at all. It's just the cost of the sign.

Trustee Lindberg: For sure, but the volunteers are helping out.

Trustee Patterson: I know. I think its okay to keep it only because I feel that we're going to pull the volunteers from the Town. I think that's a legitimate cost but that's just my opinion. Are we saying the number of adults per the number of minors?

Deputy Mayor Cheney: Yes, it says that in here. It's at the top of the middle page it says that it is required that volunteer group have at least one supervising adult for every four minors. Again, we can keep this open for a while but we certainly want to get it set up fairly soon so that we can publicize it and we do have one group that's ready to go.

Sidewalk Liability

Deputy Mayor Cheney: The next item of discussion is sidewalk liability. We have a proposed change from the Village Attorney regarding adding liability language to the sidewalk section...

Michael Meth: There was a court decision that came down that parts the difference between a maintenance obligation and liability for any sort of tort. They said that it would require a specific disclaimer notice by the Village putting it into their Local Law. It's not just a blanket disclaimer though that the Village gets to pass on the liability to the land owner but the way that the case did it and the way that the Local Laws are reading is that they add something that basically says that it's the duty of the owner to maintain such sidewalk in a reasonably safe condition that their property abuts to notwithstanding any provision of law that the owner of the real property abutting any sidewalk shall be liable for any injury to property or personal injury caused by the failure of the owner to maintain such sidewalk in a reasonably safe condition. You couldn't just pass liability off like an indemnity and prove that it was their fault that they failed to maintain it pursuant to your maintenance statute. The way I suggest doing it... our sidewalk statute is pretty long. It has I think over 30 different subdivisions because of all of the variety of different things so the most logical place to place language like this in the statute is to add a new section 117-26 and then renumber the ones under it sequentially. So if you wanted to do that I can give you the language of the proposed new section 117-26 and if you want to close the Public Hearing and make a motion then I can formally write up the language.

Deputy Mayor Cheney: It's not a Public Hearing, its discussion.

Michael Meth: So if you want to set up a Public Hearing for that... but Section B is the real meat and bones. At the bottom of Section B I put in an exclusion that was just by way of an example on a placeholder. The Board of course can fill in any sort of exclusions they want.

Deputy Mayor Cheney: This one in particular that you presented to us, it seems to exempt one, two and three family residential.

Michael Meth: This is the way New York City did it and I left it in there by way of example but only across the commercial properties that aren't zoned as individual properties. The article that I was asked to read wasn't really clear on why or if that's necessary but just like I said, I left it in there as an example in case you wanted to limit it, you can do that anyway. If you want to take out a commercial district as long as it's not arbitrary and capacious.

Trustee Patterson: So in other words ours is going to apply to all sidewalks?

Michael Meth: If that's what you want it would apply to all sidewalks.

Trustee Patterson: That is what we want, isn't it?

Deputy Mayor Cheney: That's what we were considering.

Michael Meth: That's easy just take out that part.

Trustee Lindberg: From New York City they also explain what a defect is.

Michael Meth: They have an included but not limited to list because things like workmanship, install, construct, reconstruct, repave, repair, replace. We have a lot of blue stone. I know we have some provisions with that. You might want to specifically say that that's something that's acknowledged, that it's still required because every once in a while we have people that come to us...

Trustee Patterson: We set some aside because we came across a lot of it and we set some aside for those who want to use it but there's no less liability for anyone who has bluestone.

Michael Meth: We just provide the material?

Trustee Patterson: If we have it because it's expensive... just because we had it. I can't remember what project it was from. It doesn't say anything in here and I'm guessing that you would leave it in our law because it's in our law now about the ten day window that is the responsibility of the Village to once we're notified we have to tell the property owner within ten days that we have been notified of a tripping hazard.

Michael Meth: Right, so all the maintenance provisions that we have in there under Sections 1 through the new 25 remain in effect and this should say that we would shift liability to them if they fail to maintain it pursuant to our maintenance provisions. In other words it can't just be a blanket the Village isn't responsible. I assume if we were ever to get involved in litigation because the Village would still be named pursuant to notice of claim and all those cut off and short time periods and then because of our statute they would have to name the property owner also and the Village would have to be involved in showing the laws and making a motion to dismiss, something like that to get out of the case. I don't think a law like this would prevent you from being named in a lawsuit because I guess there are ways it could be alleged that it's not necessarily related to maintenance it could be some sort of event. I just can't predict any sort of fact pattern and the way this statute reads based on that article and I went back and I looked at the actual decisions that the article was talking about. It's not just a blanket shift of liability. The way they did it in that particular case and the way New York City did it was for failure to maintain. So if you want me to try it and make it more restrictive... not only

failure to maintain but anything having to do with the sidewalk, you can do it until it is challenged.

Trustee Patterson: I think it would be interesting to go to the author of that article and say how's this?

Michael Meth: He would just kind of review it. This would be up to the court.

Trustee Patterson: How's this relative to the article that you wrote. I mean that's NYMIR, that's our insurance company.

Michael Meth: He wouldn't be an authority.

Trustee Patterson: I think it's the attorney for NYMIR who wrote it.

Michael Meth: Either way I don't know that that person who wrote the article would be someone we could rely on by way of passing it. I think if we want to match it, it's already been tested. If you want to make it more restrictive than it would be in full force and effect if we come to a challenge. The way it would be challenged would be by way of a lawsuit.

Trustee Lindberg: I think it would just be if we caused the problem. I mean if we were digging a ditch or something and didn't fill the hole.

Michael Meth: That's one of the examples, sure, or even if there's a heavy storm and it freezes and unfreezes and something happens because that's not necessarily maintenance related.

Trustee Patterson: The full responsibility of the sidewalk is on the property owner.

Michael Meth: I understand that. I'm just saying I don't know if we can shift liability to them. I know the maintenance is on them. So far I haven't seen anything that says I can just shift clear liability to them without any responsibility of the Village.

Deputy Mayor Cheney: In other words what you're saying is that we will probably be named in a lawsuit regardless of what we write in our law.

Michael Meth: No, but if you have this law on the books... if you don't have this law on the books there's no chance you're getting out just because you have a maintenance provision. You're in the case. But I'm reading and again I haven't actually been in the litigation, there's very limited opinions that if you have this law that one court separated the maintenance responsibility versus liability. Just because you have a maintenance law

that doesn't mean you can shift the liability. What this does now is it gives everybody notice that we are shifting liability which I guess the onus of it is that once people know that we're shifting liability they may take the maintenance law more seriously. Once people are on notice for that then these opinions seem to say that if it is these things, negligence to install, construct, reconstruct, repave, repair or replace the defective things then you can shift the liability. If it's not one of those things and it's not in this law you can't and if you want to write it more restrictive and see if it's challenged. It might be challenged and upheld. The court might say I think they're right if it's their maintenance responsibility why wouldn't it be their liability also. It's just that that article didn't get that far.

Deputy Mayor Cheney: But I think what Trustee Patterson is saying is that before we finalize anything and bring it to the public and make a decision on whether we enact it or not that it be run by NYMIR to just see if they have any desire or any ideas and possibly also NYCOM. You brought up a point to me this morning about our law and consistency with the State.

Michael Moser: Our Village Code isn't consistent with the State Code regarding snow removal for the most part. That's something I need to discuss with you.

Deputy Mayor Cheney: But it's 12 hours versus 24 hours. Ours says 24, the State says 12.

Michael Meth: I'm not even familiar, but I can talk to you about it.

Trustee Patterson: For a particular property owner to have the snow cleared.

Michael Moser: Just for snow in general. We want snow off the sidewalk as soon as possible. The State Code is 12; your Village Code is 24. The Village Code we're giving them a whole lot more time for someone to slip and fall during those extra 12 hours that they could have taken care of the sidewalk.

Trustee Patterson: Plus we promote the walkability of the Village not just in nice weather, so I wasn't aware of that. That's an interesting thing to change.

Deputy Mayor Cheney: While we're on the sidewalk and winter weather conditions portion of the discussion, I know you were going to plan on bringing it up later on but after the last storm you went around...

Michael Moser: I took just a quick trip around the Village the other day after the storm. Twenty-four hours after the storm there was more than 35 sidewalks just in a 10 minute trip of me going around and then today there were still at least 20 of them that hadn't

been done; still not even touched. I understand it was a very small little storm but at this point it's an icy mess.

Deputy Mayor Cheney: I don't think our intent in any of this is to be punitive toward our residents but we just want to highlight the fact that it's very important to get those sidewalks cleared. You're doing a service for your neighbors and anyone else that walks along that pathway that they can navigate it safely.

Trustee Patterson: Don't we have those signs... like those yard signs. I know that Dan would put them in the snow as a reminder to the property owners that all ice and snow need to be removed by order of the Village.

Trustee McManus: I don't ever remember seeing any.

Deputy Mayor Cheney: My experience is that Dan Kelly would contact the property owners directly.

Trustee Patterson: Right, I know he would do that but there was also signs.

Michael Moser: The only problem with contacting the property owner is that you're waiting to mail out...

Deputy Mayor Cheney: It wasn't mailed out, it was a call.

Michael Moser: You're not going to find people...

Deputy Mayor Cheney: Exactly.

Trustee Patterson: Are these business owners?

Michael Moser: A couple are business owners.

Trustee Patterson: If they're business owners we have their email addresses. Maybe we can count on the press to make it a headline. But it's certainly something we can put on our Facebook page.

Michael Moser: I figure if we let them know now and a month from now when we have a ten inch snow storm and a new Code Enforcement Officer will be out looking for this. I thought I better let them know now so that the new guy doesn't surprise everybody with these laws because they've been there.

Trustee Patterson: But I do agree that we should change it from 24 to 12 and we could incorporate it with this, right?

Michael Meth: Then I'll get you a draft that we can send up to NYMIR and NYCOM.

Trustee Patterson: You don't want to send this draft to NYMIR.

Michael Meth: No, I'll change it the way you wanted me to and then I'll send it up to them and see what they say.

Trustee Patterson: If you want to send it to me I'll send it on.

Privilege of the Floor

Joe Lawlor: You brought up two things. One about the Adopt-A-Street Program. I think you make the sponsors in charge of the work crew.

Deputy Mayor Cheney: They are, yes.

Joe Lawlor: Okay, but it doesn't say that. If he's responsible then he's also responsible for reading them the rules and making sure they have all that. As far as the fee for the sign well if it's a non-profit Boy Scouts of America, Knights of Columbus, something like that I say we waive it or we have the ability to waive it, let's put it that way. If it's for Landmark Inn they get advertising out of it and they should pay for the sign. If it's a for profit business that's adopting it they're getting advertising out of using that sign by putting their name out there so they should pay. If it's a non-profit you should give yourself the ability to waive it.

Trustee Patterson: That's a good idea.

Joe Lawlor: Make the sponsor in charge of the group.

Trustee Patterson: That's already in there.

Joe Lawlor: This way you only have one person back and forth with the DPW.

Deputy Mayor Cheney: That's the way it's written.

Joe Lawlor: As far as limit if you look at the current signs that are out there it's usually the next three miles, the next four miles, so I don't know if you want to limit it to one mile. I know you're trying to do it with streets.

Trustee McManus: We don't have a road that's a contiguous mile.

Joe Lawlor: Right, that's what I'm saying.

Deputy Mayor Cheney: No, South Street's over a mile.

Joe Lawlor: Another thing you're talking about having the sidewalks removed if the storm ends at 7 p.m. do you really expect me to have it cleared by 7 a.m.? I'm not getting out of bed to do it. I'm a homeowner. I'm not talking about a business now. There's a difference. You said its 12 hours after the storm ends. I think it should be 24. That's my opinion. Only residentially wise I'm not getting up at 7 a.m. to clear. For what? Just stop and think about it. But that's just food for thought. Businesses I agree they should have it clear because that's a main thoroughfare for everybody, not just their business but each succeeding business, so I agree, but residential I don't know if 12 hours is too short. I think it should be 24 residential.

Deputy Mayor Cheney: There will definitely been a Public Hearing on that. You can return for that.

Joe Mahoney: I'm with the County Attorney's office. I have a procedural question if you don't mind. As it relates to the first item on your agenda today relating to the improvement and extension of Orchard Street and realignment of River Street part of the work obviously the extension of Orchard Street requires a temporary construction easement from the County. My question is, I assume it does, does the issuance of that temporary construction easement necessarily flow from an approval of the Board to that proposal? Granted I know the proposal was not granted for the County to be at work and hopefully what we don't want that we have to wait for another Public Hearing.

Michael Meth: In the resolution that I prepared for tonight it's in there. The fact that the easement is in there pursuant to the Howe Street Bridge Rehabilitation and Detour Roadway plan dated January 25, 2012 and revised on October 25, 2016. That's the resolution that I drafted for tonight. Right now we're just waiting on the final version of the IMA once we get that done this resolution should cover the fact that the Mayor can execute that.

Deputy Mayor Cheney: The IMA being the Inter-municipal Agreement between the Village and the County.

Motions

Water Main Valve Installation Project

A **MOTION** was made by Deputy Mayor Cheney, seconded by Trustee Lindberg and carried to go out to bid on the Water Main Valve Installation Project on the Pioneer Farm Property. Four Ayes.

Maintenance Bond – Regal Utility Services

A **MOTION** was made by Deputy Mayor Cheney, seconded by Trustee Lindberg to accept the one year Maintenance Bond from Regal Utility Services in the amount of 100% of the final contract price of \$302,766.64 for the Spring Street Drainage Project as per the Village Engineer's recommendation and pending review and recommendation to accept by the Village Attorney. Three Nays, One Aye (Deputy Mayor Cheney)

Discussion

Trustee McManus: I don't think we should approve it pending approval. We wait until we get the approval of the Village Attorney.

Deputy Mayor Cheney: Do you want to discuss the process that we've gone through and where we are?

Michael Meth: Absolutely. Since the last meeting I've been through three or four drafts with them on the language. Basically it's going to say if it's due to any defect in workmanship or materials then they'll be responsible to pay for it pursuant to State Building Code. That's the language we've agreed on. Now it's just a matter of getting the language into the bond written the right way. There's been a couple of errors.

Deputy Mayor Cheney: They've agreed on it but we haven't the signed document yet.

Michael Meth: They keep agreeing on it and then they send me back documents that don't say those words and I showed you a short example of this latest version this afternoon with the disconnect. So, I've been working with the broker and the underwriters and as soon as I get it back with the language that matches what our intent is I'll tell you and the Mayor can sign it. I'll leave the rest of that up to the Board.

Trustee McManus: As soon as we get it back with that language I'll vote in favor of it.

Deputy Mayor Cheney: This does hold up the payment to the contractor.

Trustee McManus: Not my problem, it's theirs. They are the ones who are holding the whole thing up.

Trustee Patterson: I agree with George. If they're the ones making the mistakes it behooves them to...

Trustee McManus: It behooves them to approve what we want, put it in writing, agree to it and then they get paid.

Trustee Patterson: I was okay until Mr. Meth said that they're not including the correct language in their response.

Michael Meth: Twice.

Trustee Patterson: I think it's irresponsible for us to move forward until they provide the correct...

Deputy Mayor Cheney: They have agreed to the language that you have proposed. They just have not put it on paper.

Michael Meth: As far as bonds go it's in writing and that's why the language has to be precise. They haven't told me no, we're not doing it. We're going to fix it that way and then I get it back and it's not that way. I send back another email. Hopefully I'll be able to resolve that in short order but I can't talk to the person typing. There are intermediaries.

Warwick Little League

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Patterson to grant permission to Warwick Little League to use Veterans Memorial Park and Stanley Deming fields for the 2017 Little League season which will extend from March 1st through November 15th. Little League will be responsible for the daily preparation of the fields. They will be responsible for scheduling use of the fields with traveling baseball and softball teams. Completed park permit, proof of proper insurance and \$100 security deposit have been received – **AMENDED**

Discussion

Trustee Patterson: I would just add not just the travel baseball and softball teams but the various adult leagues that use those fields as well. I think those applications come to us and we always say just make sure that it works with Little League.

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to grant permission to Warwick Little League to use Veterans Memorial Park and Stanley Deming fields for the 2017 Little League season which will extend from March 1st

through November 15th. Little League will be responsible for the daily preparation of the fields. They will be responsible for scheduling use of the fields with traveling baseball and softball and any other leagues that applies for use of the fields. Completed park permit, proof of proper insurance and \$100 security deposit have been received. Four Ayes.

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Patterson and carried to grant permission to the Warwick Little League to hold their Opening Day Parade and Picture Day on Saturday, April 22, 2017. The parade will step off at 10 a.m. with lineup beginning at 9:30 a.m. The parade route will be Main Street, Railroad Avenue, South Street, Parkway, Park Lane, and then crossing Forester Avenue into Memorial Park. Picture Day activities will be between 8 a.m. and 6 p.m. in the Pavilion. Completed park permit, proof of proper insurance and \$100 security deposit has been received. Four Ayes.

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Patterson and carried to close Church Street on April 22, 2017 starting at 9 a.m. for the benefit of the Little League parade. Barriers to be provided by the Department of Public Works. The parking spaces on the east side of Main Street between High and Church Streets to be designated as “No Parking” so they can be used for drop off of participants. Four Ayes.

Discussion

Trustee Patterson: Wouldn't we be closing the other streets as well as the parade meanders through?

Deputy Mayor Cheney: We don't actually close them, we shut them down temporarily.

Warwick Fire Department – Softball Games

Motion to grant permission to the Warwick Fire Department to use the Men's Over 35 field in Veterans Memorial Park every Sunday in April, May, June and July from 2 p.m. until 8 p.m. for softball games – MOTION WITHDRAWN

Warwick Fire Department – Biennial Firefighters' Parade

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Patterson and carried to grant permission to the Warwick Fire Department to hold their Biennial Firefighters' Parade on Saturday, June 10, 2017 at 6 p.m., ending in Veterans Memorial Park. They are also requesting having a reviewing stand outside of Village Hall and also decorating Village Hall as they have done in the past. Completed park permit and proof of proper insurance has been received. Security deposit has been waived. Four Ayes.

Warwick Fire Department – Annual Carnival

A **MOTION** was made by Trustee Lindberg, seconded by Trustee Patterson and carried to grant permission to the Warwick Fire Department to use Veterans Memorial Park for their annual carnival from June 18 through June 25, 2017 as per their letter dated January 5, 2017. Completed park permit and proof of proper insurance has been received. Security deposit has been waived. Four Ayes.

Change Order #2 – Stanley Deming Gazebo & Pavilion Project

A **MOTION** was made by Trustee Lindberg, seconded by Trustee McManus and carried to approve Change Order #2 in the amount of \$1,270.99 for the Stanley Deming Gazebo & Pavilion Project as per the recommendation of the Village Engineer. Four Ayes.

Final Payment – Stanley Deming Gazebo and Pavilion Project

A **MOTION** was made by Trustee Lindberg, seconded by Trustee McManus and carried to approve final payment in the amount of \$92,470.99 to Mancon, LLC for the Stanley Deming Gazebo and Pavilion Project as per the recommendation of the Village Engineer. Four Ayes.

Vacation Carry Over – Antonio Rivera

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to grant permission to Antonio Rivera to carry over five (5) vacation days. Four Ayes.

Park Avenue Elementary School – Third Grade Picnic

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to grant permission to Park Avenue Elementary School to hold a third grade picnic at Stanley Deming Park on June 16, 2017 with a rain date of June 19, 2017. Completed park permit and proof of proper insurance has been received. Security deposit has been waived. Four Ayes.

Boris Rudzinski – Building Inspector III/Code Enforcement Officer

A **MOTION** was made by Trustee Patterson, seconded by Trustee Lindberg and carried to approve the provisional appointment of Boris Rudzinski to the position of Building Inspector III/Code Enforcement Officer at an annual salary of \$60,000. Four Ayes.

Discussion

Deputy Mayor Cheney: Mr. Rudzinski, congratulations, welcome. Thank you for being here tonight.

Election Inspector

A **MOTION** was made by Trustee Patterson, seconded by Trustee McManus and carried to appoint Elizabeth Doty as an Election Inspector for the Village Election to be held on Tuesday, March 21, 2017. Four Ayes.

Howe Street Bridge Rehabilitation and Detour Roadway

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to adopt the following resolution.

WHEREAS, the Village of Warwick Board of Trustees of the Village of Warwick, State of New York, wishes to work with the County of Orange, State of New York to complete work and plans identified in the specifications titled "Howe Street Bridge Rehabilitation and Detour Roadway" dated January 25, 2012 and last revised on October 25, 2016.

WHEREAS the Village of Warwick has held a Public Hearing regarding these issues on February 6, 2017 at 7:30 p.m.

WHEREAS the Village of Warwick has agreed to enter into a Temporary Construction Easement with the County of Orange to facilitate the work and the plans identified in the specifications titled "Howe Street Bridge Rehabilitation and Detour Roadway" dated January 25, 2012 and last revised on October 25, 2016.

WHEREAS the Village will enter into an inter-municipal agreement, herein referred to as the "IMA") with the County to define the scope of the work to be performed during the replacement and repair of the Howe Street Bridge and Orchard Street and River Street as well as other collateral work.

WHEREAS the parties agree that the repair and replacement of the Howe Street Bridge as described herein as well as the collateral work is in the best interest of the constituents of the Village of Warwick and after deliberation has been determined to be for the health, safety and the benefit of their constituents.

WHEREAS during the project the County will be performing improvements as described in the plan, will be extending Orchard Street and realigning River Street.

WHEREAS the Village agrees that any language in any order issued by an ALJ which is an Administrative Law Judge regarding the use or duration of the at-grade crossing that will be created to facilitate replacement of the Howe Street Bridge shall be complied with by the Village.

WHEREAS the Village understands that any Order issued by an Administrative Law Judge regarding this project will impact River Street and Orchard Street, both of which are acknowledged to be Village roadways.

WHEREAS the Village of Warwick has deliberated on this issue regarding both the duration and the order of the replacement and that the Village of Warwick agrees to comply with the Orders issued by the Administrative Law Judge regarding the scope and duration of that project.

NOW THEREFORE UPON MOTION of the Board of Trustees of the Village of Warwick, State of New York, it is hereby resolved that the Village of Warwick, State of New York agrees to work with the County of Orange, State of New York to complete the work in the plans and specifications titled "Howe Street Bridge Rehabilitation and Detour Roadway" first dated January 25, 2012 and last revised on October 25, 2016 and to execute all documents as necessary to effectuate the same and to follow any and all orders issued by any Administrative Law Judge regarding the same.

Roll Call Vote:

Trustee Lindberg – Aye
Deputy Mayor Cheney – Aye
Trustee Patterson – Aye
Trustee McManus - Aye

DPW Supervisor's Report

Michael Moser: DPW crews finished curbside pick-up of Christmas trees throughout the Village. Parking meters have been replaced on Spring Street. We had snow and ice events on January 7th, 14th, 18th, 23rd, 24th and 31st. We had a few sewer calls, all internal home issues, nothing on main blockages. We started a Lagoon sewer project at the water treatment plant should be done next week with a new forced main, weather permitting. We removed all the holiday decorations on Main Street and put away the Menorah. I participated in the Mayor's rockin' radio show regarding Apple Eve. The new emergency generator for Village Hall is up and running and ready to go. We replaced a service line from the main to the curb valve at 5 Hamilton Avenue. We filled potholes with temporary cold patch and assisted the Village of Florida with Christmas Decoration removal. We did all 811 Digsafe mark outs as requested. We worked on the traffic sign list with Trustee Lindberg. We assisted the contractor at Stanley Deming Park with leveling of that area. We had a meeting with the engineer regarding the 18" valve project and plans going forward on that. We assisted Orange and Rockland with tree removal on Maple Avenue. We removed all holiday decorations from Railroad Green. The new fire alarm system has been installed in Village Hall and is up and running. We helped the school district with a water leak on the high school property. We picked papers along Main Street, Railroad Avenue, South Street and in the parks. All parking meters that had work order complaints were repaired or replaced. We raised two catch basins on West Street.

We repaired the curb box at 18 Howe Street and enclosed the pump station power box at the Sanford Monument.

Deputy Mayor Cheney: I would just like to take a quick five minute recess so that I can get Mr. Meth and Mr. Vernieri together and we can discuss possibly Executive Session.

There was a brief recess.

Deputy Mayor Cheney: I'd like to call the meeting back to order. For your indulgence we are now prepared to go into Executive Session.

Final Comments by the Board

Trustee Lindberg: I just want to remind the folks that February 12th, this Sunday, we're doing the Second Sunday Conversation. The title is Future Flag Project. You create a flag that represents your perfect Warwick. It's going to be at the library from 2-4. Then just a reminder on February 14th, Valentine's Day, we're having a Seniors Valentine's Day party at Park Avenue School put on by the Lions, the Rotary and Park Avenue School. It's from 6-8. There's going to be appetizers and desserts. The New York Swing Exchange is going to be there and it's free. You can reserve a spot by calling 986-1681. It's going to be an answering machine so just leave a message. Third our bi-monthly 150th committee meeting is going to be Wednesday the 8th from 7-8 in Village Hall. I'm sure George noticed going out West Street the last couple of days the Raymond Hose Company has on their sign the posted speed limit is not a suggestion. I thought that was quite appropriate. They're one of the companies that responds to motor vehicle accidents.

Trustee McManus: They responded to one today.

Executive Session

A **MOTION** was made by Trustee Patterson, seconded by Trustee Lindberg and carried to go into Executive Session to discuss the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation and also to discuss proposed, pending or current litigation. Four Ayes.

A **MOTION** was made by Trustee Lindberg, seconded by Trustee McManus and carried to go back into the regular meeting. Four Ayes.

A **MOTION** was made by Trustee McManus, seconded by Trustee Patterson and carried to adjourn the meeting. Four Ayes.

Barbara Ranieri
Deputy Clerk