

**Village of Millbrook  
Board of Trustees  
Minutes September 14, 2010**

**Call to Order** by Mayor Hurley at 7:01 p.m.

**Pledge of Allegiance** led by Mayor Hurley

**In Attendance**-Mayor Hurley, Trustee Morse, Trustee Whalen, Trustee Cox, Trustee Spagnola, Attorney Rebecca Valk and Clerk Linda Wiltse

Mayor Hurley began by strongly urging the public to vote today for the primary which is open until 9:00 p.m.

The Mayor gave a shout out to the Millbrook Business Association (MBA) Board of Directors for such a great Community Day. She added that they very quickly pulled this event together. She also stated the Fire Department's barbecue was very successful. The community is looking forward to next year.

**Fire Department**-Matt Rochfort, president, stated the in ground oil tank removal bid was awarded to JSK who will take out the tank and Jeff Daley was awarded the bid to put a new above ground tank in place. Mayor Hurley stated she would like to talk tomorrow with Matt about the insurance coverage for pollution control for this project. Matt stated Dutchess Overhead Doors will install a new insulated overhead door in the back garage. This project is in the budget under house improvements.

Matt informed the Board that the committee met and set up a celebration for Sunday, October 17, 2010 at 2:00 p.m. to honor those who served in the old Fire House. Ed Loedy is the current owner of the building and he has given his full support of this event. Matt added that the Village and Town of Washington's Boards are invited. He also stated a time capsule is located in the building and it will be opened on that day. Coffee and cider will be served. The Historical Society is involved in the celebration as well and they will be doing the publicity. The original Fire House sign and the 1930 Seagrave fire truck will be on display at the old Fire House.

Matt stated the Seagrave was on display at Community Day and will be in parades as long as nice weather prevails. Matt stated the air conditioners in the rooms where elections and primary's are held are shot. Crystal Clear Refrigeration fixed them the next day and they are now up and running. Mayor Hurley stated she met with Liz Baldwin last week and reviewed the Rescue Squad's issues. Liz stated at this meeting that everything is running smoothly and several new members are trying to complete training.

**Highway Department**-See attachment A. Robert Collocola stated that Harts Village Road will be patched tomorrow. They will take care of the areas that have the most potholes. He added it is in the plans to do 100 feet of patching on Church Street toward the end of September. Bob asked for a Board member to speak to the Millbrook Central

School District Board on the potholes on the end of Alden Place which is on school property. His request was based on several telephone calls he has received.

**Police Department**-See attachment B. Trustee Cox stated the Police officers will be devoting patrol time to the weight limit enforcement on Nine Partners Lane and to the speeding due to the receipt of several complaints. Rebecca Valk stated she will check on confirmation from the Dept. of State in reference to the weight limit law passed for Nine Partners Lane.

**Water/Sewer Department**-Scott Osborne see attachment C. Mayor Hurley stated that Arold Construction is fully staged and Scott stated that all equipment has been removed. She added the old blowers must still be removed and the new blowers installed. Mike Fanning was not available for the meeting but he has been on site throughout the entire project. Mayor Hurley has asked for two proposals for painting the water tank. She also stated the Village will get a comprehensive map of the water system to see where water valve installation is needed.

**Shared Services Grant**-The Mayor met last week with Lash Contracting, Greg Bolner and Steve Lynch in reference to the sewer main project schedule. The Board will be notifying neighborhoods of the repair schedule so they can curtail their water usage and waste water line needs.

They will be informed that if the work truck is off the street then it is okay to use the water/waste water lines. She added that the manhole on Pilgrim Lane needs uncovering for repairs. She also stated that since the bid for the work specified in the project specifications was at 50% of the original expected cost they will discuss additional projects. They hope to accomplish this while Lash Contracting is still mobilized in the Village. Mayor Hurley stated that VRI will provide a list of the next repair phase. She added that a special meeting is scheduled for September 21, 2010 7:00 p.m. at the Village Hall. With the list from VRI it will make it easier to determine how to proceed with expending the rest of grant funds for capital projects.

**Memorial Stone**-John Kading, representing the American Legion, stated that on November 11<sup>th</sup>, 2010, Veterans Day services and ceremony will be held. He is asking permission to put a memorial stone and plaque on the front lawn of the Village Hall. It was added that the stone will be in place by November 11<sup>th</sup> and the moving logistics will be given at the next meeting by Alec Pandeleon. Alec stated they will mark the location on the ground and the stone will be placed where the Village Board desires. Photos of the Village Hall used to show the possible optimum location were given to the Village.

**Oil Spill**-Mayor Hurley expressed her appreciation toward Chazen and thanked them for their performance on phase 3 of the oil spill. She added that Bob Sherwood from Corewood was very fast and put forth a great effort which was seamless and quick. Dan Merchaud, an engineer from the Chazen Company, gave a 30 day timeframe and excellent plan of action for this project. The decision making was very quick. Dan set a schedule and followed it well.

Dan stated the data received from the water system shows wonderful signs. He added they will run the water system for another month or two and then reassess the system needs. Dan stated that at the minimum a very small water treatment system would be required. He added that with the current data the water looks good. In addition, the soil samples look good and they are organizing this data which will support the effectiveness of the remedy done to date. The best case is they will operate the system for a few more months and they will shut it off if the results are good. The Mayor stated the NYS DEC will have the deciding role in this system. The Village will also be in contact with Mr. McGyver the Collomelo's engineer. The Oil Cleanup division of the DEC will provide a tank closure report since the tank is a non regulated tank. They are the regulatory authority covering this spill. Once the DEC heard the remedy and viewed the remedy, they stepped back from the project and trusted everything was going according to plan.

Mayor Hurley stated the restoration plan will be discussed in executive session. This plan will be submitted to Allan Rappleyea so he can forward it to his clients the Collomelos and the Debonis'. 4,000 tons of soil was trucked out for each of the two phases. The Mayor stated the Board decided to fully excavate so they did not have to monitor the project for many years to come.

Chris Collomelo stated it was his understanding that once phase 3 was closed out, the project would then be turned over to the homeowner and this is not the case. Al Debonis is upset about the amount of water he gets on his mother's property, according to Chris. Chris added that the wall is not put back. Mayor Hurley sated that they have been fortunate to have low rain levels lately. Dan stated that grade levels were checked with a transit and he acknowledged low levels in some areas. Chris stated he expected a level pad for the new garage and he expected the pipes to be cut off when the topsoil is put in. Dan stated the transition to a landscaper may require more soil. He added the Fract tank shows 80% of the wells are dry. The forced water samples are coming out clean. Dan stated that every two months data is pulled. Chris expressed his concern about water being pulled into his basement. Dan stated the Village won't just walk away from the system when the pumps are shut off and Mr. McGyver will be supplied all available data.

Mayor Hurley stated the Village will advertise within the next week for bids to replace the retaining wall. Skip Ciferri questioned if part of phase 3 should include a rough grade which must be established first before the wall can be installed. He added they can't make the grade with topsoil. The Mayor added that a successful executive session will bring about the hiring of a consultant once the Board exits out of executive session. The consultant will be assisting the Board with restoration adjustment figures and information.

**Bennett Unsafe Building Decision-** See attached. Rebecca spoke on closing the process out. She added that when the Board made the decision to hire a hearing officer they decided to have the hearing officer give his findings. Mr. Golden gave a resolution to close an open question that agrees with the Board of Trustees. Mayor Hurley offered that Mr. Golden stated that if his order is modified or changed that once based on the Village Code this will become the final decision. She added that his decision should be deemed

the final decision. Not taking any action is equal to a final order. Rebecca stated it is appropriate to close the loop. See attached. The Village Board agrees with the hearing officers decision, the Board takes no action and Mr. Golden's resolving is the final order. Trustee Cox desired to make sure the Board acted within the local law. He added that when the hearing was all said and done is the hearing officer the finder of fact. Rebecca responded by stating the hearing officer's decision is deemed the final order. She advised the Board not to take anymore official actions. Trustee Cox questioned that as the Board do they have the authority to do what the hearing officer states in his decision. Trustee Whalen stated the Board is bound by the hearing officer's findings and he doesn't care to change those findings since they are compatible with the Board's desired outcome.

Mayor Hurley repeated that the finding of the facts is equal to the final order.

Rebecca offered as an alternative is for the Board to give a separate action but Trustee Whalen asked why they would want to do this. He added that he doesn't want to create an unnecessary issue and Rebecca agreed. Either way the Board is standing by Mr. Golden's decision. Mayor Hurley stated there is not an appeal process but that Bennett may be eligible for a review. Rebecca stated that according to the Village Code the decision is final when it is filed in the Zoning Enforcement Officer's office. She added that 30 day timeframe starts when it is filed tomorrow by Rebecca after the Board makes their action tonight. Trustee Whalen raised his concerns over page 2 and Rebecca stated the hearing officer did focus on certain language which is a matter of opinion. Rebecca read from the unsafe building code where the Village Board retained the right to overrule the hearing officer's decision.

Trustee Whalen stated the Board maintains the right to back up the Zoning Enforcement Officer (ZEO). Trustee Cox asked if the Board should formerly adopt the recommendations in the hearing officer's final order. Trustee Whalen responded that the Board may leave the door open if they don't adopt it. Rebecca stated the Board may deem it a final order. The Mayor added that they should keep it simple. Rebecca was contacted by Veneziano & Associates to go over a timeframe for completing and complying with the unsafe building code violation notice. She will receive a stipulation from them in the next 30 days. They may have a meeting sometime after the 27<sup>th</sup> of September. Veneziano & Associates are giving the impression they are agreeing. They will stipulate as to the appropriate schedule to complete the work in the order and they will have to continue to abide by this schedule.

Mayor Hurley noticed in the order on page 6 about obtaining legal expenses where the Village may be able to recover since they had to conduct this hearing. She asked about how the Village begins this process. Rebecca stated she will look at case law and added the Board may have to start an action judgment to start. She also stated the witnesses, legal, photo copying expenses, research and legal fees should be covered. The general municipal law may have the procedure laid out for this process. Trustee Whalen gave new language for the resolution to adopt the order as follows:

**The Village Board of Trustees, pursuant to Village Code Section 86-2(c), deems the hearing officer's determination a final order; and**

**Be it further resolved that the Village Board of Trustees adopts the factual findings and legal conclusions as embodied in the said determination.**

Trustee Morse made a motion to adopt and Trustee Spagnola seconded. All were in favor. Rebecca stated she foresees ZEO Kenneth McLaughlin and her working up a timeframe. She has had discussions with the NYS DEC and SHIPO. Mayor Hurley stated it is the Board's intention to be reasonable. Trustee Cox stated the Village ZEO sighted these folks in January and they appealed. He then asked does the Village retroactively sight them for this entire time. Rebecca responded by referring to the Village Code Section 86-2(a) where it stated that if a request for an appeal then the compliance of notice is not required thus causing any enforcement to be on hold. Rebecca also stated that a provision for failure to comply of a \$500 per day fine will kick in. She added that any delay benefits Bennett. They will use every opportunity to delay and the Board must keep them on task. Rebecca and Ken must keep them on task.

**Millbrook Golf and Tennis Club Boundary Line**-Dutchess County Clerk's office did not want to file the plans showing the lot line adjustment without the Village Planning Board chairperson's signature. The chairperson would not sign the plan without first reviewing it which was very reasonable. Mayor Hurley stated there are 9 points of law that must be met before the Village can accept the plans for a lot line adjustment which can then be filed with the county.

Rebecca referred to the Monroe County case law which provides 9 questions that must be analyzed to determine if the Village is subject to its own zoning laws. The Monroe County case law has 9 rules of balancing and the Village must meet all 9 rules of balancing. See attached. All of the property is located within one municipality. Rebecca stated the Village is establishing a line where research of past maps divulged no definitive lot line. Rebecca recommends the Village be deemed exempt. The Mayor stated there is no financial impact on the Village. She added the Millbrook Golf and Tennis Club paid for the preparation of all of the plans. Trustee Morse stated he would abstain from any vote on this matter since he is a Club member.

Andrew Ciferri stated he did some research which showed the boundary line in the same spot. He added that the Village did not have a survey. He is concerned the Village is losing prime property for development and he is concerned about the set backs. He also stated the Village is losing a lot and he thinks the lot line should stay the same. The Mayor explained the lot line is ambiguous in the deed and the Board has already approved the lot line change. Skip Ciferri stated that if the Village wanted to develop the property they would need to make a new right of way agreement with the Carazones. Mayor Hurley stated the map was approved previously and this procedure will allow them to file the map properly with the county. The Board of Trustees declared them the lead agency in regard to SEQRA on this matter. Rebecca read the resolution and the Negative Declaration.

**Court Consolidation**-The Village Board of Trustees went to the Town of Washington board meeting last Thursday according to Mayor Hurley. Judge Louis Prisco stated he

will not seek re-election and it makes sense to pursue court consolidation with his impending retirement. He added this is the right time especially since he has been hearing for years it will save money and eliminate a layer of government. Mayor Hurley stated the Town lost \$32,000 last year but the Village has broken even this year. She added the Village will gain space upstairs and no court will be in session while the Recreation programs are in progress. There will be an impact on the town side for budget purposes according to the Mayor. She added the Village will continue to receive fines on Village ordinances and the Town court would receive revenue from additional tickets being written in the Village. The court clerk hours may need to be expanded. They are faced with a couple of decisions such as what if the Village has to have a permissive referendum. Would they have to hold a special election which would be costly? There is a 30 day timeframe to put the permissive referendum on the ballot. The Village Board could also ask for a public hearing to get the public's opinion. The Mayor asked for the Village Board's opinion. Trustee Morse asked if it is necessary to have a referendum of any kind.

Rebecca Valk stated that residents could petition the board to put this decision up for permissive referendum. Trustee Whalen stated he likes the idea of a public hearing which would give the board an opportunity to be informed of something they may have missed. Trustee Spagnola stated that consolidation of the court is a good first step and the board should act. Mayor Hurley stated she spoke to the Millbrook Independent asking them to run an article in the paper requesting the public's opinion. Rebecca stated that if the Village advertised for a public hearing then they could ask for it to be put to a vote or pass the court consolidation. Trustee Whalen stated the Board has the ability to abolish the court at the next meeting but they may give a gesture to the residents who want more participation in the process. Rebecca offered that the Village residents did put the Board members in the position to make decisions. Andrew Ciferri stated the majority of Village residents want to downsize local government. He added the Smart Report came out giving support and showing a minimal cost savings to the Village. New York State is pushing for consolidation. Andrew added that many residents like the personal touch and compassion they receive from a local justice. Andrew stated in his opinion the Board should not go for a referendum. The Mayor stated there will be growing pains and she asked Rebecca to prepare both resolutions for the meeting on the 28<sup>th</sup> of September.

**Municipal Agreements**-Mayor Hurley mentioned enacting two municipal cooperative agreements. One agreement would be for inspectors conducting zoning enforcement, building and fire inspections only in emergency situations. The second had to do with the fire tanker truck. It would be retained for both municipalities to use and housed in the Town of Washington garage. The Town of Washington confirmed in writing that their Conservation Advisory Committee would be available for the Village Planning Board's needs upon request.

**Trustee Comments**-Trustee Morse informed the Board of Trustees of the Emergency Preparedness Committee's progress at the last meeting. He stated the Town of Washington submitted their emergency preparedness booklet which will address some unknown emergency. He added that a memorandum of understanding between the

entities in the community, the Town and the Village will be updated every two years. There are currently 200 but that number may need to be narrowed down to 25-50. The Committee is interested in working with these entities for their dedication during an emergency. Trustee Morse also added that monthly meetings will continue and the Committee hopes to wrap it up in a year or so. The Mayor stated the Water Quality Committee was born from some of these concerns and issues.

Trustee Spagnola stated he went around as far as the fuel tanks at the Highway Garage and they do conform to all NYS DEC regulations if a spill were to occur. He added he is looking into the Thorne Building electric service upgrade with the overhead installation option being the less expensive. Trustee Spagnola has been researching the relocating of the Boy Scouts to the old bowling alley room recently renovated in the Village Hall. He stated there is no sense in covering the sky light in the Village Hall since it is not leaking after careful monitoring. He added the wall next door and the oil tanks downstairs are still under review.

Mayor Hurley stated she met with J.J. Brownell concerning zoning issues specifically in reference to the recreational vehicle parked on the Village streets and looking at a business located illegally. She added that fire inspections will be done on a regular routine basis. On the Planning side Trustee Spagnola and Rebecca have met to discuss parking issues that have come before the Board of Trustees and the Planning Board. Rebecca stated the goal is to meet in two weeks from tonight. She added they talked about a lot of concepts and they want to get them on paper. Rebecca stated that Trustee Spagnola had a lot of insight since he was a former Planning Board member. Trustee Spagnola discussed his meeting with David Clouser on these parking issues. Mayor Hurley commented on the definitions, the use table and the markers in the Village Code. She also commented on the Zoning Board of Appeals (ZBA) appearing at the Planning Board meetings as a matter of procedure instead of upon request. Rebecca stated that some uses may not fit into one of the definitions as written in the code and therefore they will need the Planning Board's input. The Mayor confirmed she plans on attending the next Planning Board meeting to be held on the 23<sup>rd</sup>.

**Water Quality Committee**-Trustee Morse stated the committee will look at the current sole water source and they will look at alternative water sources. He added they are currently gathering data. The committee will also review a list of potential commitments of available water sources. They will be working with GIS maps. The committee will also be identifying users outside of the Village and non users within the Village.

Mayor Hurley stated she was notified by the crew working on the dam at the Hitchcock Estate and the water flow may be reduced while the work is taking place.

**Correspondence**-Mayor Hurley stated she received a letter from the Dutchess County Resource Recovery Agency who has prepared a draft of a new local solid waste management plan which she encouraged everyone to read fully. In this plan they will propose a user fee and the Mayor has concerns when they may use assessment and put on

the tax bills. She added that it is not a perfect system to determine the fees. They have until October 15 to respond and the Mayor will respond in writing.

**Public Comments**-Skip Ciferri questioned the estimates on the wall that will be replaced next to the Village Hall and are the estimates going to be complete. Trustee Spagnola responded by stating the Village will do the excavation ourselves.

Scott Tumblety stated that Joel Tyner, a County Representative, has been looking into Dutchess County Waste Management for some time and he is pushing for a zero waste initiative. He added they want to get as close to zero as you can. The ash must be buried elsewhere. He stated the old bag system encouraged recycling more than now and he feels the Village took steps backward. Mayor Hurley responded that it is the responsibility of the residents personally. Scott stated that manufacturers are also responsible for over packaging their products. He added that the garbage haulers must only have non recyclable materials in their trucks or they will get fined. Howard Schuman stated fines are the answer.

Andrew asked for updates on the Thorne Building. The Mayor stated no letter of credit has been received and the article in the Millbrook Independent newspaper stated the Downings have funding issues. She added she has asked for a meeting but she has not heard back. The Board is still trying to enter into discussions with the Downings. Andrew asked if the money from the Tribute Gardens is still available for handicapped bathrooms. The Mayor stated there is \$395,000 for the Thorne Building projects and additional money for the roof. The purpose of the funds has shifted and as of last year they had the funds available to complete the upgrade of the bathrooms. The Board assumed no Village funds whether donated or not would be expended on this project in the past. She added that in August the Village was approached by Tribute Gardens to reallocate funds to tree replacement and street lights. She ended by stating the Downings talk of spending taxpayer's dollars is false. Andrew stated that Central Hudson had given 6 months to get the electric work done and the Mayor stated the electrical work is not completed. Rebecca stated the timeline is being discussed by her and Allan Rappleyea. She is trying to be assertive but respectful of the contract in place and Allan Rappleyea is willing to take the comments to his clients.

Daryl Matthews read an article about funding for the Thorne Building and he introduced requesting HUD money. Daryl and Trustee Morse attended a meeting on HUD funding recently. He wanted to see if in fact funds granted to the Village could accomplish the desired projects. Mayor Hurley stated the Village is not actively engaged in any funding for the Thorne Building based on the Downings funding and project. The Village has no interest by October 1<sup>st</sup> because the Village does not have an open dialogue at this time. Daryl stated that in the actual agreement there is no section that deals with the failure to do the work in a specific timeframe. The Mayor responded that no but there is a definite division of projects in the original lease. She added the Village will actively try to get back to the table and discussions will take place. Trustee Whalen stated that in the absence of any specific deadlines the law states they must proceed within a reasonable

time frame. Rebecca stated the Village assumed proceeds have funding to complete their end of bargain.

Andrew inquired about bulk pick up and if any agreement with Welsh Sanitation existed. The Mayor state the Board can look into this service. Andrew also asked about the old trash bags and Mayor Hurley stated anyone could just ask for the old trash bags.

**Future Meetings**-Tuesday, September 21 for Shared Services Grant, Thursday, September 23 Planning Board, Monday, September 27 Water Quality Committee, Tuesday, September 28 regular Village Board meeting.

**Correspondence**-Mayor Hurley stated that Central Hudson now has a face-book page to help them become more users friendly.

Andy asked Rebecca about deposition, if away what happens if gets subpoena, Rebecca law states entitled to fee from regular residence to place plus 15 per day,

**Audit of the Bills.**

**Executive Session**-The Mayor requested to enter into executive session to discuss professional services for the oil spill and insurance recovery attempts which are being actively pursued. A motion was made to enter into executive session by Trustee Whalen and seconded by Trustee Morse at 9:35 p.m. All were in favor.

**Adjourned** at 11:20 p.m.with a motion made by Trustee Morse. The motion was seconded by Trustee Whalen. All were in favor.

Respectfully submitted,

Linda T. Wiltse  
Village of Millbrook  
Clerk/Treasurer