

REGULAR SESSION OF THE VILLAGE BOARD OF TRUSTEES HELD ON AUGUST 10, 2010 AT 7:00 P.M. AT THE STATE THEATRE

PRESENT: President O'Connor, Trustees McKee, Warner, and O'Connell, C/T Decker, DCT Budine, EMS Captain Couse, Howie Couse, Debbie Stever, Jim Conklin, Mary O'Connell, Ann Schambach, Georgianna Carson, Sharon Wright, Officer Mike Chelsan, PWA Hubbard, Assistant WWTP Operator Wayne Raymond and Nick Barone.

ABSENT: Trustee Sollecito, Police Chief Cantwell

President O'Connor opened the meeting with the Pledge of Allegiance at 7:00 P.m.

President O'Connor informed the Board there will be a Firefighters Service for former Fire Department Chief Jim Hartz after the memorial service at Zacarias's Funeral Home on August 14, 2010. Further details will be provided when finalized.

RESOLUTION ADOPTING LOCAL LAW NO. 4 for 2010

WHEREAS, a resolution was duly adopted by the Village Board of Trustees of the Village of Deposit for a public hearing to be held by said Board at the Deposit Theater, Front Street, Deposit, New York at 7 pm on Tuesday, July 27, 2010 to hear all interested parties on a proposed Local Law entitled "A Local Law Amending Chapter 140 of the Code of the Village of Deposit, Zoning, Appendix I, Table of General Use, Bulk and Off-Street Parking and Stacking space Requirements"; and

WHEREAS, notice of said public hearing was duly advertised in the Deposit Courier, the official newspaper of the Village and posted on the Village Clerk's sign board; and

WHEREAS, said public hearing was duly held at the Deposit Theater on July 27, 2010 and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

WHEREAS, a copy of said proposed Local Law was submitted to the Broome and Delaware County Planning Departments for General Municipal Law §239 review and both Counties having identified no countywide or inter-community impacts associated with the proposed Local Law; and

WHEREAS, the Village Board of Trustees, having reviewed a short-form Environmental Assessment Form (EAF), has determined that the proposed Local Law constitutes a Type II action for purposes of the State Environmental Quality Review Act ("SEQRA"), which requires no further environmental review; and

WHEREAS, the Village Board of Trustees of the Village of Deposit, after due deliberation, finds it in the best interest of the Village to adopt said Local Law,

NOW, THEREFORE, the Village Board of Trustees of the Village of Deposit hereby adopts said Local Law as Local Law No. 4 for 2010 and the Village Clerk is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Village of Deposit, and to file said Local Law with the Secretary of State.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Ayes: 4 Nays: 0

Trustee Warner	voting	aye
Trustee McKee	voting	aye
Trustee O'Connell	voting	aye

Trustee Sollecito voting absent
Mayor O'Connor voting aye

Dated: August 10, 2010

MOTION#124/10-11

A motion was made by Trustee McKee seconded by Trustee Warner to waive the reading of the July 13 Regular session and July Work Session minutes. The motion carried unanimously.

MOTION#125/10-11

A motion was made by Trustee McKee seconded by Trustee Warner to accept for filing the July 13 Regular session and July Work Session minutes. The motion carried unanimously.

MOTION#126/10-11

A motion was made by Trustee O'Connell seconded by Trustee McKee to accept for filing the June and July monthly EMS report. The motion carried unanimously.

MOTION#127/10-11

A motion was made by Trustee McKee seconded by Trustee Warner to accept for filing the July monthly Treasurer's report. The motion carried unanimously.

MOTION#128/10-11

A motion was made by Trustee McKee seconded by Trustee Warner to accept for filing the July monthly Court and financial report. The motion carried unanimously.

MOTION#129/10-11

A motion was made by Trustee O'Connell seconded by Trustee Warner to accept for filing the July monthly CEO report. The motion carried unanimously.

MOTION#130/10-11

A motion was made by Trustee O'Connell seconded by Trustee McKee to accept for filing the July monthly Planning Board report. The motion carried unanimously.

OLD BUSINESS

STREETS

None

WATER

None

SEWER

None

BUILDINGS

None

FIRE DEPARTMENT

None

EMS

None

POLICE DEPARTMENT

None

PRESIDENT

None

TRUSTEES

None

FINANCE

None

NEW BUSINESS

STREETS

PWA Hubbard stated that 90 work orders for the Village had been completed and 44 for the OLWWTP. Hubbard also informed the board that the LAST brush pickup would be October 1st.

Hubbard stated the Second St. Drain Project was completed and a walk through with the County; Village; and the contractor took place on August 5th, 2010. Hubbard expressed what a wonderful job Procon had done.

Hubbard stated that Well house #1 is waiting on the new pump to arrive and then Moody and Assoc. will begin the repairs.

Hubbard informed the board that the exposed water main in Oquaga Creek has been repaired by Schaffer Enterprises – and a job well done. Hubbard would also like to thank the Kamp Family for allowing access to Schafer Enterprises from his property.

Hubbard informed the board that Vacri has completed the repairs to the wires from the control building to the clarifier at the WWTP. He further informed the board that this would be part of the Village's counter claim against Falter Construction.

WATER

MOTION#131/10-11

A motion was made by Trustee McKee seconded by Trustee O'Connell to credit water and sewer account #0005 \$130.39 for January 2010 and April 2010 billing that was paid on account #0239 when it should have been an inactive account. The motion carried unanimously.

SEWER

BUILDINGS

FIRE DEPARTMENT

EMS

Captain Couse informed the board that ambulance 7522 was out of service and could be permanently. It's a 1996 vehicle with a 1986 body on it. Couse also informed the board that the FCC has made a narrow band radio frequency change and she needs to find out more about this as it may require an upgrade to our radios. She will keep us informed.

POLICE DEPARTMENT

Office Mike Chelsan gave a presentation on the TraCs System Data 911. Officer Chelsan installs these computers and has had managed Broome Counties Trac System for some time. He also trains officers to use it. Several questions were asked and answered of Officer Chelsan; the availability of grants for the system in the future; the vpn connection in Deposit; and what pd vehicle it would be installed in. After much discussion the following motion was made:

MOTION#132/10-11

A motion was made by Trustee O'Connell seconded by Trustee McKee to authorize Chief Cantwell to purchase the Data 911 System from Hub-Data 911 at a cost of \$6917.50 and approximately \$ 640.00 in software installation and \$250.00 in the installation of the computer itself; totaling \$7807.50 to be paid from the police reserve fund. The motion carried unanimously.

PRESIDENT

President O'Connor wanted to thank the Village taxpayers for their patience with the Second St. Drain project and for obtaining and administering the OCR \$400,000 Grant.

Next, Chamber president Nick Barone addressed the board. First he wanted to make the Village aware that there was a good possibility that there would be no Christmas lights this year as all the wiring on the poles needs to be replaced. The equipment alone for this replacement is approximately \$4,300 with \$10,000 to an electrician. The Chamber is open to any and all donations in this regard. Second, the Chamber is

looking into a Small Capital Grants for Farmers Markets with the possibility of a gazebo in the green space at River St. Park. He further stated that as a 501 C-6 they cannot apply for these grants; it would need to be generated by a community. O'Connor stated that we can do nothing with the park until it becomes ours and then only what FEMA will allow us to do.

**RESOLUTION DECLARING SURPLUS EQUIPMENT
AND AUTHORIZING AUCTION**

WHEREAS, the Fire Chief of the Village of Deposit, has advised the Village Board that the Fire Department is in possession of the following: 1974 Mack Fire Truck which is no longer of use to the Fire Department due to its wear and tear and, therefore, has requested that the Village Board deem the property to be surplus property and to sell it at auction; and

WHEREAS, the Village Board has given due consideration to the request of the Fire Chief, and deems it in the public interest to declare the before mentioned property to be surplus property as the property is no longer safe to utilize within the Fire Department due to wear and tear and to authorize an auction of same;

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of the Village of Deposit hereby declares the before mentioned 1974 Mack Fire Truck to be surplus property and authorizes the Administrator of Public Services to cause the auction of said vehicle in "as is" condition at an auction as deemed appropriate by the Administrator of Public Services, with a minimum opening bid of \$1.00, with the funds received at auction to be made payable to the Village of Deposit and delivered to the Village Clerk's Office.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Trustee McKee	aye
Trustee O'Connell	aye
Trustee Sollecito	absent
Trustee Warner	aye
Mayor O'Connor	aye

Dated: August 10, 2010

MOTION#133/10-11

A motion was made by Trustee McKee seconded by Trustee O'Connell to authorize the Mayor's signature on the Consent to Change Attorney Form from MacKenzie Hughes of Syracuse NY. The motion carried unanimously. This consent to change attorney is in changing from the Frank Miller Law Firm to MacKenzie Hughes Law Firm in order to keep Mike Livolsi as the Village's litigating attorney.

**A RESOLUTION AUTHORIZING THE LAW FIRM OF MACKENZIE HUGHES, LLP
TO REPRESENT THE VILLAGE OF DEPOSIT, NY ON ALL MATTERS WHICH THE
VILLAGE DEEMS APPROPRIATE.**

SECTION 1. The Board of Trustees of the Village of Deposit hereby authorizes The Law Firm of Mackenzie Hughes, LLP, attorneys for the Village of Deposit, to provide legal services to The Village relating to any and all claims and/or potential

claims by or against The Village and any and all matters relating to or involving The Village.

SECTION 2. For its services hereunder, the Law Firm of Mackenzie Hughes, LLP shall be compensated at the rate of \$200.00 per hour for Partner time, \$160 per hour for Associate time, and \$125.00 per hour for paralegal time, and shall also be reimbursed for any costs and disbursements it incurs on behalf of the Village of Deposit in connection with said action. Any requests for payments pursuant to this resolution shall be set forth in a signed, itemized voucher to be submitted to the Village of Deposit for its review, audit and approval, and the content of any such retainer, voucher and correspondence shall remain protected by the Attorney-Client Privilege.

SECTION 3. This Resolution shall take effect immediately.

Trustee Sollecito	Absent
Trustee Warner	Aye
Trustee O'Connell	Aye
Trustee McKee	Aye
Mayor John O'Connor	Aye

A RESOLUTION AUTHORIZING THE LAW FIRM OF MACKENZIE HUGHES, LLP TO COMMENCE A CIVIL ACTION IN NEW YORK STATE SUPREME COURT, ON BEHALF OF THE VILLAGE OF DEPOSIT AGAINST THE OWNER(S) OF PROPERTY LOCATED AT 10 CENTER STREET / 121 SECOND STREET IN REGARD TO THE ABATEMENT OF A NUISANCE AT SAID LOCATION AND TO TAKE SUCH OTHER AND FURTHER STEPS AS ARE NECESSARY AND APPROPRIATE TO REMEDY A NUISANCE AND PUBLIC HEALTH HAZARD THEREAT.

SECTION 1. The Board of Trustees of the Village of Deposit hereby authorizes The Law Firm of Mackenzie Hughes, LLP, attorneys for the Village of Deposit, to be substituted as Counsel for the Law Firm of Frank W. Miller, and to commence a civil action in New York State Supreme Court on behalf of the Village of Deposit and to appear as the attorneys for the Village of Deposit as Plaintiff against the owner(s) of the property located at 10 Center Street / 121 Second Street in the Village of Deposit as Defendant(s).

In said civil action, the Village of Deposit, as the Plaintiff, shall, among other things, ask the Court: (a) to enjoin and restrain the Defendant(s) from violating the New York State Property Maintenance Code, New York State Fire Prevention Code, and any other sections of the Local Law and/or common law which are being violated with respect to the premises at 10 Center Street / 121 Second Street in the Village of Deposit; (b) to permanently enjoin the alleged violations of the aforementioned laws; (c) to direct the Defendant(s) to permanently cease and desist the alleged violations of the aforementioned laws; (d) to direct that the Defendant(s) take corrective action to abate said nuisance and to comply with the aforementioned laws; (e) to permanently prohibit Defendant(s) and all other persons from using the subject premises as a nuisance and in violation of the aforementioned laws; (f) to enjoin and restrain the Defendant(s) from creating and maintaining a public nuisance; (g) to grant the Plaintiff, Village of Deposit, reimbursement attorneys' fees, costs and expenses associated with commencing and prosecuting said action and in taking such other and further actions and steps as are necessary and appropriate in the commencement and prosecution of said action; and (h) to grant the Plaintiff, Village of Deposit, such other and further relief as to the Court may seem just and proper, together with the costs and disbursements of the action.

SECTION 2. For its services hereunder, the Law Firm of Mackenzie Hughes, LLP shall be compensated at the rate of \$200.00 per hour for Partner time, \$160 per

hour for Associate time, and \$125.00 per hour for paralegal time, and shall also be reimbursed for any costs and disbursements it incurs on behalf of the Village of Deposit in connection with said action. Any requests for payments pursuant to this resolution shall be set forth in a signed, itemized voucher to be submitted to the Village of Deposit for its review, audit and approval, and the content of any such retainer, voucher and correspondence shall remain protected by the Attorney-Client Privilege.

SECTION 3. This Resolution shall take effect immediately.

Trustee Sollecito	Absent
Trustee Warner	Aye
Trustee O'Connell	Aye
Trustee McKee	Aye
Mayor John O'Connor	Aye

MOTION#134/10-11

A motion was made by Trustee McKee seconded by Trustee O'Connell to adopt the procurement policy changes in regards to bidding with purchases and public works projects. The motion carried unanimously.

TRUSTEES

FINANCE

MOTION#135/10-11

A motion was made by Trustee Warner seconded by Trustee O'Connell to authorize the Mayor's signature on the Abstract of Audited vouchers as follows:

General Fund:	\$ 45,586.33
Water Fund:	\$ 7,372.95
Sewer Fund:	\$ 211,617.51
TA:	\$ 3,438.67

The motion carried unanimously.

MOTION#136/10-11

A motion was made by Trustee O'Connell seconded by Trustee McKee to enter into and out of Executive Session to discuss specific personnel and pending litigation. The motion carried unanimously.

MOTION#137/10-11

A motion was made by Trustee Warner seconded by Trustee O'Connell to accept the EMS application of Bethany Shirkey. The motion carried unanimously.

MOTION#138/10-11

A motion was made by Trustee O'Connell seconded by Trustee McKee to approve the settlement agreement with Center of Deposit and final stages of that process are underway. The motion carried unanimously.

The meeting adjourned at 9:35 p.m.