

MINUTES OF A WORK SESSION OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF MAMARONECK
HELD ON MONDAY, AUGUST 24, 2020 AT 4:30 P.M. VIA TELECONFERENCE
PRESENT:

Mayor
Trustees

Thomas A. Murphy
Victor Tafur
Nora Lucas
Daniel S. Natchez
Kelly Wenstrup

Village Manager
Assistant Village Manager
Clerk-Treasurer
Village Attorney
Deputy Village Attorney

Jerry Barberio
Daniel Sarnoff
Agostino A. Fusco
Robert Spolzino
Christy Mason

ABSENT: None

TELECONFERENCE INFORMATION

Pursuant to Executive Order 202.1 issued by Governor Andrew Cuomo, all in-person public access to Board of Trustees Meeting is suspended.

Each Trustee will participate remotely either by video or telephone via Zoom.

The meeting will be streamed live at <https://www.youtube.com/user/LMCTVProductions>

OPEN

On motion of Trustee Lucas, seconded by Trustee Wenstrup:

RESOLVED that the August 24, 2020 Board of Trustees Work Session be and is hereby open.

Ayes: Natchez, Wenstrup, Lucas, Tafur, Murphy

Nays: None

Mayor Murphy explained that due to the power outages, the Board could not hold their August 10 Work Session and those agenda items are being discussed this evening,

3. EXECUTIVE SESSION - ADVICE OF COUNSEL

- A. Goldstein vs. Village of Mamaroneck - It is anticipated that a motion will be offered to enter into Executive Session pursuant §105(1)d of the Public Officers Law to discuss matters of current litigation

The Board stated that they will not be discussing this in Executive Session at tonight's meeting.

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- B. Ad Hoc Ethics Code Revision Committee - It is anticipated that a motion will be offered to enter into Executive Session pursuant to §105(1)(f) to discuss matters leading to the appointment of person(s) to the Ad Hoc Ethics Code Review Committee

Trustee Wenstrup made a motion to enter into Executive Session pursuant §105(1)F of the Public Officers Law to discuss appointments to the Ad Hoc Ethics Code Review Committee, which was seconded by Trustee Lucas:

Ayes: Natchez, Wenstrup, Lucas, Tafur, Murphy

Nays: None

Trustee Wenstrup made a motion to end Executive Session and reconvene the public portion of the meeting, which was seconded by Trustee Lucas:

Ayes: Natchez, Wenstrup, Lucas, Tafur, Murphy

Nays: None

Mayor Murphy stated that there were no votes taken in Executive Session, but there was a discussion and the Board agreed to appoint all individuals who submitted their resumes to serve on this committee at the September 14, 2020 Regular Meeting. A note will be sent to them informing them of this.

1. OLD BUSINESS

- A. Juneteenth Celebration in the Village of Mamaroneck (originally presented at February 24, 2020 work session meeting) https://lmcmedia.org/videos_list/village-of-mamaroneck-board-of-trustees-work-session-2-24-20/

Trustee Wenstrup stated that she spoke with Ms. Shannon Purdy regarding this item and she will be available to make a presentation at the September 14, 2020 Work Session. Trustee Lucas asked that the St. Patrick's Day and Firemen's Parade Resolutions be referenced. She also suggested that the Arts Council participate if this will be a festival in the park.

Mayor Murphy took New Business Item 2A out of order as there were residents in attendance on this item.

2. NEW BUSINESS

- A. Authorization to Paint a Black Live Matter Mural on Grand Street

Mayor Murphy stated that there is a neighborhood end of summer party held each year, which is actually on Madison, not Grand. As they cannot have the event this year due to COVID, they would like to bring the community together to do a portion of the mural on September 26 with a rain date of September 27, 2020. On September 14, 2020 Regular Meeting for approval.

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1. OLD BUSINESS

B. Board of Trustees Feed Back on Second Draft of Comprehensive Plan

Trustee Lucas stated that the Board discussed holding a special meeting to discuss this draft. The Board checked their calendars and decided on a date of September 21, 2020 at 5-7 p.m. They asked Mr. Barberio to assure that the Village Planner, Mr. William Long and the NV5 Consultant, Mr. Neil Desai are available to attend. Mr. Barberio informed the Board that the date for the final plan will have to be pushed off as it is before the September 21 date.

C. Proposed Local Law to Waive Recreation Fees for All-Affordable Developments

Mayor Murphy stated that this law was not updated. Trustee Lucas fixed the table and sent to all. Mayor Murphy suggested that the first percentage number be removed to make this clearer; leave largest number. Mr. Barberio stated that the percentages for purchasing and rental are not the same. Mayor Murphy reminded all that this is for a building with all affordable units only. For example, if a unit is 80% of AMI, 75% of fee will be waived. Depending on the mix of affordable units, that is what they will pay. Mr. Barberio believes that the table needs to be the same as what is considered fair and affordable housing. Trustee Tafur will work with Mr. Spolzino's table as these numbers are in the Code. He also suggested removing the word rental; just say fair and affordable housing as it will refer back to the Code. Would have to define second level. Fair and deeply affordable housing units should be used as well. Another fair and affordable unit at 30% of AMI would get a reduction of 50%.

Mr. Spolzino to make changes and put back on both the September 14, 2020 Work Session and Regular Meeting. He did add that the only problem regarding sale units is that the Fair and Affordable Housing Units (FAHU) and Fair and Deeply Affordable Housing Units (FDAHU) are the same. Trustee Lucas stated that these discounts only apply when building is constructed; doesn't matter if sold or rented. Trustee Natchez is not comfortable with the sale aspect as rentals keep it more affordable for a longer period of time. Trustee Wenstrup likes the idea of sale of affordable units as this is an underserved market. Isn't helping people to own their own homes what the Board want to achieve? Mayor Murphy agreed that this gives families the ability to build equity and to pass that along. Trustee Tafur stated that this law needs a table for sales. He suggested 75% reduction for affordable sales and 100% for deeply affordable sales. Sales have to do with the qualifications of the family. This is not the same as the rental market. Mr. Spolzino to see what makes it clearer and in line with the Code for the September 14, 2020 meetings.

D. Formation of a Committee to Study Year-Round Recreation in the Village

Trustee Wenstrup stated that the Ad Hoc Tennis Committee came up with this recommendation to investigate how the Village can have a resource to look at year-round recreation options. Trustee Lucas asked why not have the Recreation and Parks Commission look at? Trustee Wenstrup believes that it should be to have a focused ad-hoc committee. Rec and Parks members can certainly participate. Trustee Lucas agrees but Recreation and Parks will be impacted by this, so they need to be involved. Trustee Tafur suggested linking them or have them be a subcommittee. Trustee Wenstrup believes that if you make it the purview of the Rec and Parks Commission it will be too big, and nothing will get done.

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Trustee Natchez stated that this started with year-round tennis and he is afraid that another year will go by and we will be in the same boat as far as tennis is concerned. What is first priority?

Mayor Murphy agreed that there needs to be a wider range discussion to get input. Trustee Lucas stated that the Rec and Parks Commission is very interested in getting more sports available to a wider range of people and that members of both this Commission and the Recreation Superintendent, Jason Pinto should be involved. Trustee Wenstrup asked if the Board is willing to move this forward and ask for resumes so that the committee may be formed. A draft resolution will be circulated to the Board and they will discuss again at their September 14, 2020 Work Session.

E. Amended License Agreement with Brixmor

Mr. Spolzino stated that this is an updated agreement. Brixmor has added bollards to protect a transformer. They asked that this reflect installation of bollards and who is responsible for maintaining them while in place and if the agreement is ever terminated. Trustee Tafur asked if this area is ADA compliant. He was informed that it was on the date that the original agreement was executed. Trustee Natchez is not sure that it is ADA compliant now. If someone complains and it is found that it is not, it becomes the Village's problem. Should add ADA compliant railing and walk in first paragraph. In maintenance section, need to add that all debris should be removed on a daily basis and area should be kept free and clear of weeds and shrubs should be in good condition including replacing those that have died. Trustee Natchez also stated that the concrete dumped on the Mamaroneck Avenue side of Lester should have been removed and it has not. He picks up debris from that area when he sees it. This should be done daily. Also, Exhibit B says see note one. There is nothing attached. Mr. Spolzino stated that this only defines the license area. This is not the plan. He reminded the Board that Brixmor is under no obligation to do this and it prevents the Village from pouring its stormwater into the sewer. The Board needs to understand the risk and we could have to solve our drainage problem another way if we don't enter into this agreement. Mr. Spolzino is happy to put all of Trustee Natchez' points into the draft, but they don't have to agree.

Mayor Murphy asked how we can say properly maintain without putting criteria on it. Trustee Tafur understands that there is an ADA compliant piece. Regarding maintenance, the agreement states that it should be to the reasonable satisfaction of the Building Inspector and then the Village Manager. He asked if both the maintenance of the walk and the greenery can be to the reasonable satisfaction of the Village Manager. Trustee Natchez believes that it should be the Building Department. Part of their responsibility. Trustee Wenstrup asked Trustee Natchez who should keep the sidewalk to nowhere pristine so that we have better flood control? Trustee Tafur stated that it says Building Inspector.

Mr. Barberio cannot commit daily inspection. But he can commit to weekly. Trustee Lucas also asked that we confirm that they are compliant with their site plan. Don't think spots to hold shopping carts were on their site plan. Mayor Murphy stated that this is a completely different issue. The Board agreed to discuss further at September 14 Work Session and to have on Regular Meeting agenda that evening as well for approval. Trustee Tafur is concerned about ADA compliance for parking spaces. Not sure who would take care of this. It is a separate issue to investigate. Mr. Spolzino stated that this is a Building Department issue.

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F. Metered Parking on south side of West Boston Post Road

Mr. Barberio gave background. We can get 74 20-foot spots and would need to purchase four multi space meters. He would anticipate \$80 – 100,000 per year in revenue. Trustee Natchez asked why not do both sides. Mr. Barberio informed him that the north side supports businesses but can certainly include. Mayor Murphy stated that there are meters until St. Thomas Church on that side. Trustee Lucas believes that if we are going to charge only on the south side, would have to monitor the north side more closely. She also thinks that this will help to get people off Mamaroneck Avenue. Mayor Murphy stated that the north side has many driveways and curb cuts. Trustee Tafur asked to include the Recreation Superintendent in the discussion as could interfere with little league. Trustee Wenstrup stated that she is sure that the little league parents would like to continue to park for free; however, we give passes to them for free parking at Harbor Island Park. This is \$100,000. How can we walk away from this revenue? She asked how this can be done. Mr. Barberio stated that the meters can be adjusted for little league if needed. Trustee Natchez would like to do on both sides. Trustee Wenstrup suggested going with the south side and looking at other side. Trustee Lucas warned that if we are going to charge on south side, need to make sure north side is turned over. Mr. Barberio to have a plan for both sides at the September 14, 2020 Work Session.

G. Draft PLL-B 2020 - Regarding the Cost of Counsel for Indemnified Parties

Mayor Murphy reviewed. He suggested a cap of two times the Village Attorney rate. Trustee Wenstrup was going to recommend 125% or \$600/hour or what every is lower. Trustee Tafur believes the minimum should be \$600/hour. Trustee Natchez believes that the problem with setting a rate, is that it is finite and attorney rates will only go up, not down. Mayor Murphy again suggested two times the Village Attorney rate and if it is over that, must come to the Board of Trustees for approval. Trustee Tafur stated that this has not been abused and believes that 200%, or \$500/hour, which is two times the rate, is too low in a complex situation. Trustee Wenstrup did not agree as they are not suggesting capping hours. If it is a complex case, it can take more hours. Trustee Tafur stated that 250% is \$625 and that is more or less the rate in this area. Mayor Murphy believes \$500 is ample for doing municipal work. Trustee Tafur stated that Adam Stolorow was charging \$625/hour before he reduced his rate. Trustee Wenstrup informed him that we did not negotiate the lower rate, he offered.

Trustee Wenstrup stated that she believes that Trustee Natchez should recuse himself from this discussion as he is in the process of retaining an attorney and this is a conflict. She also understands Trustee Tafur's position, but not doing anything is not doing their jobs. Again, Trustee Tafur stated that this has not been abused and we must go with prevailing rate. Mayor Murphy asked about \$550/hour. Would he compromise on that? Trustee Lucas believes that this all should be wrapped up with Ethics Code changes. Mayor Murphy stated that this is a completely different issue.

Trustee Tafur was not willing to compromise at \$550/hour as he presented figures based on Mr. Stolorow's approach. It is a struggle to find municipal attorneys. Regarding Ethics law, some experts are charging \$700-800 per hour. Mayor Murphy agreed that Trustee Natchez should recuse himself from this discussion. The Board left this with no cap.

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H. Review of 50 Foot Setback Requirement

Reviewed proposed law. Mayor Murphy still believes this should be done with the Planning Board and they agreed. Having the Zoning Board hear, adds a more difficult hurdle to jump through. Law was not thought through. He is not happy with this but is better than what is there now. He will compromise and vote in favor of this. Trustee Wenstrup shares Mayor Murphy's concerns. Wishes it was more streamline. She had a question on definitions. On page 2, section 240-5, mean high water level, is confusing. Is this a term that people in the field understand? If so, okay, but still confusing. Also, the mean high-water level for non-tidal is confusing. Water body definition seems broad. Could it be a puddle? On page 7, section 9 p3, it states that parking areas require permeable paver. Can this be revised to all nonstructural paved areas, not just parking? She also reminded staff that when we schedule a public hearing, should send mail notice to all property owners that are affected by this. Trustee Lucas stated that we did not notify people that have properties affected during the Army Corps plan. Should be consistent. We had a list that we thought would require easements and the Flood Mitigation Advisory Committee wanted to notify them, but it did not happen. Need to have a policy so that we are consistent. As this draft has not yet been circulated to other boards, this must be factored in. Trustee Tafur believes that definitions are in line with language consultants use. Trustee Lucas agreed to have non permeable surfaces required in all nonstructural paved areas including patios and walkways. Trustee Natchez asked that the term pavers be removed as there are other permeable or porous materials that can be used.

The Board agreed to schedule the Public Hearing at their September 14, 2020 Regular Meeting and to leave time for boards to review. Mr. Barberio will have a list compiled of addresses of properties that are against rivers in the C1, C2 and MC1 zones.

I. Policy for Issuance of Temporary Certificate of Occupancy (no backup)

Trustee Natchez stated that he raised this as there is a question on whether to issue temporary Certificates of Occupancy as we issue them when conditions have not been met. Trustee Lucas agreed as we have issued significant ones that have not worked out. Mayor Murphy believes that this is a tool used in every municipality under different circumstances. He understands that there are residents that are upset but should not throw the baby out with the bathwater. Trustee Lucas stated that an issue is that some properties have had them for years and it is hard to pull once issued. Need to tighten up circumstances. Trustee Lucas asked under what circumstances would allow them to go on for a number of years? Pine Street home had one for 10 years. Trustee Wenstrup stated that the Code says not to exceed 6 months. The problem is that we keep renewing and it is hard to pull it once someone moves into the property. Must be very mindful in how we use these. Trustee Tafur asked to look at other municipalities. Mr. Barberio to do so. He asked about limiting renewals. Trustee Lucas stated that puts you in a situation of evicting families. Mr. Barberio to have information on what neighboring municipalities do for the September 29, 2020 Work Session.

J. Full-Time Attorney and Land Use Attorney

Trustee Natchez stated that he ran on a platform of a full time Village Attorney and separate Land Use Counsel. He updated a previous Request for Proposal and would like to move this forward. Mayor

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Murphy stated that he originally ran on the platform of a full-time attorney in 2017. He was also largely responsible for the hiring of a full-time attorney in 2007. It was a different configuration at the time he was reelected. He does not think the Village has ever been better represented. Excellent arrangement with having an attorney in the office full time. In 2019, he did not run on this platform as he was shown how things can be done in a better way. Trustee Tafur stated that Trustee Natchez has drafted two RFPs and neither talks about a full-time attorney. Trustee Natchez wanted to question the concept.

Mayor Murphy asked Trustee Natchez about the current service, is it working? Must have parameter on where you want the Village to go and asked if that is not happening now? Trustee Tafur agreed to review the land use piece. Trying to resolve all of this requires a lot of analysis and believes that we don't have the elements to do this now. Mayor Murphy stated that there have been many changes of key staff in the last year. Also have significant litigation that is currently being handled. Trustee Tafur is concerned with Mr. Spolzino's firm doing all land use as there have been conflicts. He agreed to continue the land use discussion, especially zoning. Trustee Lucas agreed that land use counsel should be separate. On September 14 work session for further discussion.

K. Dogs in Village Parks

Trustee Lucas believes that there is some confusion. She reviewed the redlined document. The Parks and Recreation Commission had discussed rolling out at Harbor Island Park first and other parks at a future time. Mayor Murphy okay with bifurcation. Trustee Wenstrup stated that she is fine if Parks and Rec want to go about it that way. Mayor Murphy suggested the area by the sewer treatment plant, as this is not used for sports. That might be a spot for a dog park in the future as well. Trustee Wenstrup believes soccer teams use that area to practice. Trustee Lucas believes that a dog park needs to be a whole separate community conversation. It is also expensive to administer. The Board reviewed the Harbor Island Park portion only. Having this be year-round was discussed as well as fixed versus static leashes. Trustee Wenstrup thanked the Rec Commission. Mr. Barberio pointed out that there is a dog park for Sheldrake Place so the argument that individuals who live at Sheldrake Place have nowhere to walk their dogs is not valid. The Board agreed to schedule the Public Hearing at the September 14, 2020 Regular Meeting to open the hearing at the September 29, 2020 meeting.

L. Change in Authority to Appoint, and Supervision of, Village Clerk-Treasurer

Not discussed. Will be discussed at the September 14, 2020 Work Session.

2. NEW BUSINESS

A. Authorization to Paint a Black Live Matter Mural on Grand Street

Discussed earlier.

B. Front Yard Garbage Collection

Not discussed. Will be discussed at the September 14, 2020 Work Session.

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- C. Establishing a Fee for Review of Stormwater Pollution Prevention Plans (SWPPS) (no backup)
Not discussed. Will be discussed at the September 14, 2020 Work Session.
- D. Letter from Planning Board Member
Not discussed. Will be discussed at the September 14, 2020 Work Session.
- E. Proposed Local Law to Establish a Permitted off-street Parking Lot
Not discussed. Will be discussed at the September 14, 2020 Work Session.
- F. New York State Police Reform and Reinvention Collaborative
Not discussed. Will be discussed at the September 14, 2020 Work Session.
- G. Police Department Communications Desk
Not discussed. Will be discussed at the September 14, 2020 Work Session.

ADJOURN

On motion of Trustee Wenstrup, seconded by Trustee Natchez, the Board adjourned the August 24, 2020 Work Session at 7:15 p.m.

Ayes: Wenstrup, Lucas, Tafur, Murphy

Nays: Natchez

PREPARED BY:
SALLY J. ROBERTS
DEPUTY CLERK

RESPECTFULLY SUBMITTED BY:
AGOSTINO A. FUSCO
CLERK-TREASURER