

Regular meeting of the Trustees, Village of Lyndonville was held on Monday, June 10, 2013 at the Village Hall. Meeting opened at 7:00 p.m.

PRESENT:	Mayor:	Stephen C. McAvoy - Absent
	Trustees:	James Tuk
		Ellen Tuohey
		James Whipple
		Danny Woodward Jr.
	Clerk-Treasurer	Teri Woodworth
	Supt. of Public Works	Terry M. Woodworth
	Code Enforcement Officer	Douglas Rue
	Attorney	David Schubel
	Fire Chief	Jason Gerety
	Public:	

APPROVAL OF THE MINUTES

ON MOTION of Trustee Woodward Jr., seconded by Trustee Tuohey, to accept the minutes of the May 13, 2013 Regular meeting and May 29, 2013 Year-End meeting.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

PRIVILEGE OF THE FLOOR:

- Nothing

USE OF FACILITIES

- Danny Woodward Sr. – Use of the Fire Hall on May 18, 2013 for a surprise birthday party for Danny Woodward Jr. from 3:00pm to ?.

RESOLUTION NO 2013-46

USE OF FACILITIES – DANNY WOODWARD SR.

ON MOTION of Trustee Tuohey, seconded by Trustee Tuk, to approve Danny Woodward Sr. use of the Fire Hall on May 18, 2013 from 3:00pm to ? for a surprise birthday party for Danny Woodward Jr.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

- Yates Community Library – Use of Vets Park for the following dates and times:
 - July 8, 2013 – 7:00PM – 8:30PM – Barker Community Band – approximately 50 attending
 - July 15, 2013 – 4:00PM – 4:45PM – Charlie & Checkers – approximately 30 attending
 - July 22, 2013 – 7:00PM – 8:30PM – Fireside Brass – approximately 50 attending
 - August 19, 2013 – 6:30PM – 8:30PM – Happy Ending Band – approximately 100 attending

RESOLUTION NO 2013-47

USE OF FACILITIES – YATES COMMUNITY LIBRARY

ON MOTION of Trustee Tuk, seconded by Trustee Tuohey, to approve the Yates Community Library for the dates given in July and August of 2013 for use of Vets Park.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

Report – Fire Chief Gerety

- YTD calls – 103, MTD calls – 17 (5 – EMS in Town, 3 – EMS in Village, 1 – Automatic Alarm, 1 – CO Detector, 1 – MVA in the Town, 2 – M/A to Ridgeway, 1 – M/A to Carlton, 1 – M/A FAST to Medina and 2 – Brush/Grass Fire)
- New Applicants – Harold Suhr, Catherine Worrells and Constance Rodas. They have been approved by the Fire Dept Board and their background checks came back clean. Chief Gerety has given the driver’s license check forms to Clerk-Treasurer Woodworth. Chief Gerety stated he doesn’t let anyone drive any equipment for the first six months or until he gets approval from Clerk-Treasurer Woodworth.

RESOLUTION NO 2013-48

NEW MEMBERS OF THE LYNDONVILLE FIRE DEPARTMENT

ON MOTION of Trustee Woodward Jr., seconded by Trustee Tuk, to approve the three new members to the Lyndonville Fire Department pending the approval from Tompkins Insurance on the driver’s license check.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

- Trustee Tuk asked how many fund raisers the Fire Department has annually. Chief Gerety stated not very many, mainly just the Gun Raffle. Trustee Tuk inquired does the Fire Department have to get the Board’s approval to have such fund raisers. Trustee Whipple stated that hasn’t been done in the past. Chief Gerety added he did mention the Gun Raffle a couple of months ago, it would be in August of 2013. Clerk-Treasurer Woodworth noted that the Games of Chance license application needs to be completed for her to issue a Games of Chance

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license before the Gun Raffle can be held. Trustee Woodward Jr. stated John Flanagan was working on the application.

Report – Code Enforcement – Rue

- Reported: Building Permits issued – 2, Certificate of Compliance issued – 1, Building Permit Inspections completed – 1, Notice Letter's sent – 9 and Appearance Tickets Issued - 1

Report – Attorney – Schubel

- Working on routine stuff with Clerk-Treasurer Woodworth
- Trustee Tuk asked what the status was on the response letters to Deb Miller and Elena Ames. Attorney Schubel stated the letters should be going out tomorrow. In the letters they are being given ten days notice, even though ten days may be on the long side considering this isn't new to them stated Attorney Schubel. Also added that overpayment figures were slightly different from the overpayment letters sent by Mayor McAvoy in 2012 compared to the figures from the State Comptroller's Officer. At the time the overpayment letters were sent from Mayor McAvoy the tax withholdings had not been sent in yet. Given that those withholdings had to be sent in both Deb Miller and Elena Ames would need to pay back the gross amounts in order for the Village to obtain back the overpayment in taxes. Trustee Tuk asked what is the next step if no payments are received from Deb and Elena. Attorney Schubel advised it would be starting a legal proceeding if that is what the Board so chooses. Attorney Schubel did add it may cost more than what the Village would receive in the overpayments. Trustee Tuk noted it's the principle of it and it's the tax payer's money. Attorney Schubel agreed it's definitely the principal of the matter. Attorney Schubel also stated that after reviewing the field auditor's paperwork that Clerk-Treasurer Woodworth FOIL-ed from the State Comptroller's Officer ,and documentation showing Deb Miller's NYS retirement date as May 30, 2011 he clearly see's where Deb Miller was paid for vacation time that she wasn't entitled to.

Report – Clerk-Treasurer Woodworth

- Verified the Board saw the May 2013 Police Report
- Advised if any of the Board members wanted to change their withholdings for payroll in 2013 they would need to fill out a new W-4 and IT-2104.
- Provided copies of the 2012-2013 & 2013-2014 Account Balance reports from KVS. Clerk-Treasurer Woodworth will be working with the State Comptroller's Office and Bookkeeper Gaesser's office to close out the 2012-2013 budget year. The list of line item transfers will be done at the July 8, 2013 Board meeting.
- AUD – Clerk-Treasurer Woodworth will be doing the 2012-2013 AUD with assistance if needed from the State Comptroller's Office. Bookkeeper Gaesser charged the Village \$5,000.00 to do the 2011-2012 AUD, this will help cut that cost with Clerk-Treasurer Woodworth processing it.
- Vouchers – Abstract A12-1 #762 – #777 to be paid

General	\$ 3,711.47
Water	\$ 2,098.51
Sewer	\$ 1,339.13
Capital	\$ 0.00
Grand Total	\$ 7,149.11

RESOLUTION NO 2013-49
VOUCHERS TO BE PAID

ON MOTION of Trustee Tuk, seconded by Trustee Tuohey, to have Clerk-Treasurer Woodworth to pay Abstract A12-1 Vouchers #762- #777.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

- Vouchers – Abstract A1 #774 – #791 to be paid

General	\$ 17,181.27
Water	\$ 13,318.31
Sewer	\$ 11,884.44
Capital	\$ 0.00
Grand Total	\$ 42,384.02

RESOLUTION NO 2013-50
VOUCHERS TO BE PAID

ON MOTION of Trustee Tuohey, seconded by Trustee Woodward Jr., to have Clerk-Treasurer Woodworth to pay Abstract A1 Vouchers #774- #791.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

- Trustee Tuk asked Clerk-Treasurer Woodworth what was the latest update was on Toski. Clerk-Treasurer Woodworth stated the delay is with the Village's records on fixed assets. Toski can offer a qualified option on the

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Village's fixed assets but that is not acceptable to USDA or by GASB standards. Therefore the Village is being advised to hire a company to come in and inventory the Village's fixed assets. Trustee Whipple asked if we knew who could do this. Clerk-Treasurer Woodworth was given a couple of company names from Toski, but she would like to get the Board's permission to start obtaining quotes for this. The Board agreed to start getting quotes. Clerk-Treasurer Woodworth noted that she had found fix assets records dated 2006, but is unsure how reliable they are and doesn't feel comfortable depreciating from 2006 to current. Trustee Whipple inquired if this is something KVS could maintain in the future and if Clerk-Treasurer Woodworth would look into that. As well as when the company's are interviewed see if they have any experience with KVS maintaining fix assets.

Report – Superintendent Woodworth

- Superintendent Woodworth announced that the Village of Lyndonville won the Best Tasting Water contest in Orleans County at the Strawberry Festival this past weekend. Superintendent Woodworth stated the next level is Monroe County although he's not sure where that is going to be since the fairgrounds has been sold.
- Superintendent Woodworth is getting estimates from Chatfield Engineer's for the extra funding that may be available. Once the estimates are received, Superintendent Woodworth, Mayor McAvoy and Trustee Tuk will get together and review them. Superintendent Woodworth noted the Capital Project on the Waste Water Treatment Plant is supposed to be complete by July 15. Trustee Tuk noted that Eric is doing all the measuring and quotes we need to see what we can do within the extra funds.
- Superintendent Woodworth filed the 4th of July Parade Permit. Superintendent Woodworth spoke with the Town of Yates, Town of Ridgeway and Orleans County about permission to detour onto their roads as well as assistance with signage. Superintendent Woodworth added that in the future a permit will be needed for the Memorial Day parade as well; originally the NYS DOT representative said one wasn't needed and then when the 4th of July Parade Permit was submitted asked what about the Memorial Day Parade Permit. Clerk-Treasurer Woodworth added this all as been computerized to make this process easier and more efficient in the future. Trustee Tuk asked what time the parade is. Superintendent Woodworth advised it starts at 12:00pm but doesn't make its way onto Main Street until 12:30pm usually. Trustee Tuk asked if the Lyndonville Lions Club flyers will have on them the Village of Lyndonville is the sponsor of the parade now. Trustee Whipple stated probably not but Trustee Tuk could call the Lions Club and ask that question. Trustee Whipple also noted that it costs the Lions Club around \$3,000.00 just for the parade that bands have be paid now just to be in the parade. Trustee Tuk stated the Village of Lyndonville donates \$2,500.00 for the 4th of July to the Lions Club. Trustee Whipple stated this is just what the Village does, its sponsors the parade and supports the Lions Club on the 4th of July. Clerk-Treasurer Woodworth asked Trustee Whipple who are the contacts for the parade or craft booths, she's receiving several calls regarding wanting to be in the parade or have a booth. Superintendent Woodworth and Trustee Whipple advised Jeffrey Johnson is the head of the 4th of July, Kevin Johnson is the head of the parade and Joyce Chizick is in charge of the craft booths in front of the school.

Report – Trustee Tuohey

- Still no call back from Senator Maziarz's office. Trustee Tuohey call on Thursday and Senator Maziarz was not in.

Report – Trustee Tuk

- Asked Clerk-Treasurer Woodworth has she heard anything on the refunding of the bonds. Clerk-Treasurer Woodworth stated the latest email was just looking for some final paperwork.
- Asked if the Board had seen and reviewed the IT Policy. Trustee Whipple stated we will discuss that when we get to OSC under Old Business.

Report – Trustee Woodward Jr.

- Nothing

Report – Trustee Whipple

- Nothing

Report – Mayor McAvoy

- Absent

OLD BUSINESS:

- Water Agreement – Town of Yates as voted and accepted the Village of Lyndonville's Water Agreement. Trustee Whipple asked Trustee Tuk since he was the water liaison between the Village and the Town has he reviewed the agreement and does he approve. Trustee Tuk stated the agreement is correct.

RESOLUTION NO 2013-51
WATER AGREEMENT

ON MOTION of Trustee Tuk, seconded by Trustee Woodward Jr., to accept the Water Agreement between the Town of Yates and the Village of Lyndonville and to have Mayor McAvoy sign off authorizing the agreement.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

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- OSC Response – Clerk-Treasurer Woodworth provided copies of proposed Leave Policies, procedures and terms of employment. Trustee Whipple asked Clerk-Treasurer Woodworth to add a header showing the date when last updated and adopted for future. The Board discussed a few things and would like the policies and procedures reviewed by Attorney Schubel before adopting. The Board asked Clerk-Treasurer Woodworth to contact the State Comptroller’s Office to advise the new policies and procedures are under review of legal counsel and will be adopted at the July 8, 2013 Board meeting.

NEW BUSINESS:

- Legal Services Agreement –
 - VILLAGE OF LYNDONVILLE - LEGAL SERVICES AGREEMENT

THIS AGREEMENT made as of the 1st day of June, 2013, between the VILLAGE OF LYNDONVILLE, a municipal corporation of the State of New York, hereinafter referred to as “VILLAGE” and WEBSTER, SCHUBEL & MEIER, LLP, Attorneys at Law, of 113 West Center Street, Medina, New York, hereinafter referred to as “ATTORNEYS”,

WHEREAS, the Village requires legal services in connection with the operations and functions of the government of the Village, and

WHEREAS, the Attorneys are experienced in matters involving municipal law and wish to perform necessary legal services for the Village,

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises hereinafter set forth, it is agreed as follows:

Attorneys will perform the following legal services:

- 1.) General consultation with all board members and Village officers, as required.
- 2.) Attendance as requested at meetings, conference sessions, and public hearings of Village governmental bodies, including the Village Board, Planning Board and Zoning Board of Appeals as required.
- 3.) Preparation of resolutions and local laws.
- 4.) Preparation and review of contracts and like transactional matters but excluding administrative agency proceedings, civil litigation and enforcement proceedings, capital project matters, bond issues and other borrowings, and the purchase and/or sale of real property and/or personal property.
- 5.) General legal research and correspondence; FOIL responses.

As compensation for the services as enumerated above, the Village will pay Attorneys an annual retainer in the amount of \$6,500.00 which shall be paid monthly in installments upon submission of vouchers therefor by Attorneys, payable upon approval by the Village. The vouchered payment shall not be considered compensation for the purposes of the New York State Retirement System.

The Attorneys will perform and provide such legal services as are required by the Village, as follows:

- 1.) The representation of Village in administrative agency proceedings, civil litigation and enforcement proceedings.
- 2.) Legal services in connection with capital projects, bond issues, and other borrowings and other related matters.

As compensation for services set forth in subparagraph 1 and 2, the Village will pay the Attorneys in accordance with the following schedule, rates and fees:

- a.) For the services described in subparagraph 1 above at the rate of \$135.00 per hour.
- b.) For legal services described in subparagraph 2 at rates and fees to be agreed upon between the parties by separate agreement for each matter.

The Attorneys shall periodically voucher the Village for the services rendered in subparagraphs 1 and 2, and such fees shall be payable upon approval of such vouchers by the Village. The vouchered payments shall be not considered compensation for the purposes of the New York State Retirement System.

The Lawyers’ Code of Professional Responsibility prohibits representation of multiple clients if the exercise of independent professional judgment on behalf of a client will be or is likely to be adversely affected by such multiple representation. For the matters described above, the Village will be a client of the Attorneys.

As a matter of course, Attorneys regularly represent other municipalities and professionals who provide services to municipal entities. Attorneys’ representation of these clients has occurred in the past, is presently ongoing, and Attorneys hope will continue in the future.

If Attorneys represent a regular client in matters not related to the Village, a “potential” conflict of interest may arise if such client subsequently becomes involved in a matter relating to the Village. Execution of this Agreement will constitute a waiver by the Village of all “potential” conflicts of interests, but will not constitute a waiver of an “actual” conflict of interest. An “actual” conflict of interest would exist in a situation where Attorney’s firm represents the Village and another client in the same matter. In the event of an “actual” conflict of interest, Attorneys will provide notice to the Village of such “actual” conflict of interest, and will undertake such appropriate steps to resolve any such “actual” conflicts of interest consistent with the Lawyer’s Code of Professional Responsibility.

The terms of this Agreement shall be for the period of one (1) year from June 1, 2013, to May 31, 2014. This agreement may be terminated by either party upon ten (10) days written notice by certified mail return receipt requested or personal delivery.

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RESOLUTION NO 2013-51

LEGAL SERVICES AGREEMENT – WEBSTER, SCHUBEL & MEIER, LLP

ON MOTION of Trustee Woodward Jr., seconded by Trustee Tuohey, to accept the legal services agreement with Webster, Schubel & Meier, LLP.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

- Lawn Maintenance Local Law – Clerk-Treasurer Woodworth stated the current Village Code states “It shall be the duty of the owner or occupant of all lands abutting on any street, public alley or public ground in the village to be cut the grass and weeds growing on said lands during the first week of June, July, August and September in each year.” Clerk-Treasurer Woodworth added Mayor McAvoy wants to include May as well. Code Enforcement Rue stated he’s been going by the NYS lawn maintenance law that states the grass can be longer than ten inches. Clerk-Treasurer Woodworth stated she’s been told there is a current local law that also states there is a \$75.00 fee charged back to the property if the Village DPW ends up cutting the grass. However the Village is not able to locate that local law at this point in time. Code Enforcement Rue stated the Village of Medina charges \$100.00 to cut the grass as well as \$60.00 per hour, they have a contractor come in and cut the grass and the contractor is paid \$50.00 per hour. Trustee Whipple would like Code Enforcement Rue to obtain the Village of Medina’s lawn maintenance policy including fee’s as well as the State law and work out a new lawn maintenance local law for the July 8, 2013 Board meeting. Superintendent Woodworth stated the Village DPW doesn’t want to get into the lawn mowing business they have enough lawn mowing now as it is. Also added that the \$75.00 fee doesn’t cover the cost of having a DPW worker mowing a property that maybe the Village should consider a contractor. Attorney Schubel added that the Village of Medina’s fee schedule is to try and discourage residents from letting their lawns get that long.
- Water Shutoffs/Condemning – Code Enforcement Rue stated that the Village of Medina condemns a residence when the water services are shut off for non-payment. Once water service is turned back on the home has to be inspected by Code Enforcement and then given a Certificate of Occupancy before the property can be occupied. Trustee Whipple stated that’s the Village of Medina, does State Law back this up? Code Enforcement Rue stated its State Law to have plumbing in order to obtain a Certificate of Occupancy. Superintendent Woodworth stated that most residents are at the Clerk’s Office to pay within hours from having water services turned off. Trustee Whipple stated we should have a clear process as to how things work before getting to a shut off so residents are aware of the process to hopefully discourage it to getting to this point. Trustee Whipple asked Code Enforcement Rue to obtain the Village of Medina’s policy for the Board to review and decide on changing the Local Law regarding water service shut off’s at the July 8, 2013 Board meeting.
- Complaints –
 - Orange Fence – The Village received a written complaint regarding the orange fence by the Dam. “The temporary orange fence along the waterfalls edge has been in place for three years, and I believe is an eyesore. With the waterfall being a central landmark for our Village I would like to see the necessary repairs done not only for us residents but visitors as well.” Superintendent Woodworth stated he will contact the NYS DEC representative and see what can be done to fix that area. He will also look into having a six foot high chain link fence put up in place of the orange fence until some kind of permanent fix is done.
 - Speed Limit on Eagle Street – The Village received a written complaint regarding the speed limit on Eagle Street – “Would like to get Eagle Street knocked down to 20 mph due to too many children playing and people speeding.” Trustee Whipple asked Clerk-Treasurer Woodworth if folks are going too fast on her Street. Clerk-Treasurer Woodworth stated yes there are some people that fly down Eagle Street. Superintendent Woodworth stated new “Children at Play” signs were just put up about a year ago. Trustee Whipple would like Clerk-Treasurer Woodworth to ask Officer Riemer to spend some extra time on Eagle Street, maybe give out some warnings and see if he can get things to slow down before the Board changes the speed limit.
- Trustee Tuk commented that Sharon from the Pennysaver is going to be blocking off her parking lot behind the building as she’s been made aware of some “deals” going on during the very early morning hours. Trustee Tuk asked can’t the Orleans County Sheriff’s Department be called when this is going on and let them handle it instead of trying to have Officer Riemer come at those hours or blocking off the parking lot? Clerk-Treasurer Woodworth stated that Orleans County has been notified.
- Code Enforcement Rue mentioned the old radar gun that sits on Officer Riemer’s desk and offered the Village Board \$20.00 to buy it. Trustee Whipple stated the Board would have to declare it surplus and it would have to be sold by sealed bid. Superintendent Woodworth added the Village should look into having a sale in August to get rid of some surplus items.
- Superintendent Woodworth noted that if the Board was going to increase the Availability charge that it needs to be done by Local Law and it should be done before the September 2013 billing cycle is sent out.
- Clerk-Treasurer Woodworth asked Attorney Schubel if he has reviewed the IT Agreement with WRB Graphics (Bill Belson). Attorney Schubel stated he had and there were some things in the agreement he was concerned about and needed further clarification. Attorney Schubel stated he would contact Bill Belson to discuss, but did not advise entering into the agreement with WRB Graphics at this point in time.
- Clerk-Treasurer Woodworth informed the Board of the Orleans County Civil Service Rules that are online and a copy is in her office for review. The Village needs to go by the Orleans County Civil Service Rules as we currently have Self-Insurance through them.

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- Clerk-Treasurer Woodworth commented that the next workshop would be on July 3, 2013 and she wasn't sure how many members would be in town given the 4th of July holiday the next day.

ON MOTION of Trustee Tuohey, seconded by Trustee Tuk, to cancel the July 3, 2013 workshop.

Vote: 4 Ayes (Tuk, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

ON MOTION of Trustee Woodward Jr., seconded by Trustee Tuohey, to adjourn the meeting at 8:09 p.m.

Vote: 5 Ayes (McAvoy, Tuohey, Whipple, Woodward Jr.); 0 Nays; 0 Abstain

Teri Woodworth
Clerk-Treasurer