

Regular meeting of the Trustees, Village of Lyndonville was held on Monday, February 3, 2025 at the Village Hall. The meeting opened at 6:00 PM

PRESENT: Mayor: John Belson
Deputy Mayor: Danny Woodward Jr. - Absent
Trustees: Anne Marie Holland
Kimberly Kenyon

Clerk-Treasurer Teri Buffin
Supt. of Public Works Devan Freeman
Code Enforcement Officer David Reese - Absent
Attorney Katherine Bogan

Public – Present: Carla Woodworth, Robert DeMallie, Steve Colon, Richard Hellert

APPROVAL OF THE MINUTES

ON MOTION of Trustee Holland seconded by Trustee Kenyon, to accept the minutes of the January 6, 2025 regular meeting.

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

PRIVILEGE OF THE FLOOR

- Ontario Shores Realty Richard Hellert inquired if there was an updated on 77 S Main St with regards to the interest of converting into apartments. Mayor Belson noted he received written response today from the new attorney and copies will be provided to all parties involved. Mr. Hellert inquired why another attorney was obtained when he could have helped. Attorney Bogan noted she advised the Board to obtain another attorney as she had to recuse herself. Mr. Hellert provided a list of two-unit properties in the Village. Village Zoning Board of Appeals Chair Carla Woodworth noted she’s aware of Mr. Hellert’s interest as he confronted her on the street one day. Village ZBA Chair Woodworth inquired why Mr. Hellert is pushing this issue so much when he’s not a resident of the Village of Lyndonville and this appears to be a personal gain for him as the realtor. Village ZBA Chair Woodworth noted this parcel could be turned into a single family with a decent size lot which its already zoned for. The Board advised Mr. Hellert to read the letter and then come back to the Board at a later time if needed.

USE OF FACILITIES

- Nothing

Report – Code Enforcement Reese

- Report – No report given at this time.

Report – Police Department

- Nothing at this time

Report – Attorney Bogan

- Attorney Bogan requested that the Board enter into executive session after new business regarding a potential lawsuit.

Report – Clerk-Treasurer Buffin

- Clerk-Treasurer Buffin presented the Board the budget to actual report for January 2025.
- Clerk-Treasurer Buffin noted the DCJS Use of Force reports have been filed.
- Clerk-Treasurer Buffin provided and update that the high water/sewer bill for 28 S Main Street has been fully satisfied. Clerk-Treasurer Buffin worked with the tenant and provide agency contact information whom were able to assist the tenant.
- Clerk-Treasurer Buffin presented Mayor Belson and Superintendent Freeman with the requests for budget estimates for the 2025-2026 budget year. Clerk-Treasurer Buffin also provided a budget calendar of dates to the entire Board.
- Vouchers – Abstract A8-1 – A9 #18481 - #18536 to be paid for 2024-2025

General	\$ 8,489.27
Water	\$ 5,418.53
Sewer	\$ 29,463.04
Capital	\$ 51,711.47
Grand Total	\$ 94,883.37

RESOLUTION NO 2025-5

VOUCHERS TO BE PAID FOR ABSTRACTS A8-1 – A9

ON MOTION of Trustee Kenyon, seconded by Trustee Holland, to have Clerk-Treasurer Buffin pay Abstract A8-1 – A9 #18481 - #18536.

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

Report – Superintendent Freeman

- Nothing at this time

Report – Trustee Kenyon

- Nothing at this time

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Report – Trustee Woodward Jr.

- Nothing - Absent

Report – Trustee Holland

- Trustee Holland inquired where things stand with hiring for Public Works Maintenance Worker position. The Board requested that Clerk-Treasurer Buffin run the employment ad again.

Report – Mayor Belson

- Nothing at this time.

NEW BUSINESS:

- Village Credit Card – Clerk-Treasurer Buffin presented the Board with the information to obtain a business credit card with M&T Bank. Clerk-Treasurer Buffin noted the current card with Tompkins Elan Financial Services is linked to Assistant Superintendent Woodworth and she’s been trying since December of 2023 to remove him with no success. The Board discuss cancelling the Tompkins card and going with M&T Bank.

RESOLUTION NO 2025-6

TOMPKINS ELAN FIANCIAL SERVICES – CLOSE ACCOUNT

ON MOTION of Trustee Kenyon, seconded by Trustee Holland, to authorize Assistant Superintendent Woodworth to close the current Village credit card with Tompkins Elan Financial Services.

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

RESOLUTION NO 2025-7

OPEN BUSINESS CREDIT CARD – M&T BANK

ON MOTION of Trustee Kenyon, seconded by Trustee Holland, to authorize Clerk-Treasurer Buffin to open a Village credit card with M&T Bank as the authorized signer with the Clerk-Treasurer. Superintendent and Mayor being authorized card users

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

- Elections Inspectors - Clerk-Treasurer Buffin asked the Board to approve Carla Woodworth as the chairperson of the Election on March 18, 2025 with Paul Daigler, and Agnes Recco, Susan West and Patricia Nagel as alternates.

RESOLUTION NO 2025-8

APPOINTMENT ELECTIONS INSPECTORS CARLA WOODWORTH – CHAIRPERSON WITH PAUL DAIGLER AND AGNES RECCO, SUSAN WEST AND PATRICIA NAGEL AS ALTERNATES FOR THE MARCH 18, 2025 ELECTION

ON MOTION of Trustee Holland, seconded by Trustee Kenyon, to appoint Carla Woodworth as the chairperson of the March 18, 2025 elections along with Paul Daigler, and Anges Recco, Susan West and Patricia Nagel as alternates.

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

- Clerk-Treasurer Buffin asked the Board for approval paying the elections inspectors \$17.50 per hour. Clerk-Treasurer Buffin noted she hasn’t heard back from Medina or Holley; Albion pays minimum wage of \$15.50.

RESOLUTION NO 2025-9

ELECTIONS INSPECTORS PAY

ON MOTION of Trustee Belson, seconded by Trustee Holland, to pay the elections inspectors \$17.50 per hour.

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

ON MOTION of Trustee Kenyon, seconded by Trustee Holland, to enter into executive session for possible lawsuit at 6:19pm

ON MOTION of Trustee Holland, seconded by Trustee Kenyon, to close the executive session with no action taken at 6:37pm

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

OLD BUSINESS:

- Apartments Proposal – 77 S Main St – Mayor Belson presented the Board with the letter from WSM Elder Law Attorney David Schubel.

Re: 77 South Main Street
SBLNo. 25.17-1-71.2

Dear Mayor Belson:

Regular meeting of the Trustees, Village of Lyndonville was held on Monday, February 3, 2025 at the Village Hall. The meeting opened at 6:00 PM

Based upon my conversation with Village officials and a review of the Village's file, it appears the Village Code Enforcement/Zoning Officer is in receipt of plans from Steven Vann for remodeling an existing building on the above-referenced premises previously used as a doctor's office into three apartments. The doctor's office was previously approved by issuance of a Special Use Permit dated March 2, 1995 after proceedings before the Village of Lyndonville Planning Board and referral to the Orleans County Planning Board. All such proceedings were undertaken in accord with the Zoning Law in effect at that time in 1994 and 1995.

The Village has now requested my opinion as to the legal propriety of the new proposal for conversion of the doctor's office into a three-family dwelling in light of the fact of the existence of Special Use Permit dated March 2, 1995. While a previously issued special use permit runs with the land, a special use permit only permits the use as previously approved including any conditions attached thereto.

In this instance, the newly proposed use of conversion into three apartments must be evaluated from the Village's Zoning Law now in effect. The parcel in question is situated in the R-1 Single Family Residential Zoning District as established by Article IV of the Village Zoning Local Law duly adopted September 8, 2003.

Article V of the Zoning Local Law establishes district regulations for each of the respective Districts. Section 501 of Article V sets forth the permitted uses as of right in the R-1 District which are as follows:

- B (1) Single Family Dwellings
- (2) Private Schools and Pre-Schools

The within application by Vann does not fall within either B1 or B2.

Section S01D sets forth and enumerates Uses Requiring A Special Permit Issued by the Village Planning Board. Of the nine items set forth in Section S01D, the only relevant item for consideration is item I which is:

- I. Accessory Apartments (as an accessory use only)

For a definition of an Apartment and as Accessory Department, it is necessary to refer to Section 210, Definitions, which provides as follows:

Apartment: A dwelling unit within a two-family or multi-family dwelling that is intended to be leased or rented. This term shall not be deemed a motel, hotel, boarding house or travel trailer.

Apartment, Accessory: A supplemental, self-contained dwelling unit with or attached to a single-family dwelling for the temporary occupancy of the property owner's parent or parents or the property owner's adult child.

Article VII of the Zoning Local Law sets forth Special Permit Criteria for the uses specified in this Article and are declared therein to possess unique characteristics requiring that each proposal for any such use shall be considered as an individual case. Section 721 imposes additional regulations and conditions on "accessory apartments". The language of Section 721 is exhaustive, reflecting clarity and precision. A copy of the entire Section 721 is enclosed herewith as Exhibit A. It is sufficient to note for purposes of this opinion that subdivision A provides "The intent of the Section is not to permit permanent two-family" dwellings, except to accommodate special housing needs.

No other residential uses are permitted in the R-1 Zoning District except as noted hereinabove. It is well settled that any use which is not set forth as permitted is prohibited.

I am of the opinion that the only application which would be permissible for the Village Planning Board to entertain would be an application for two units in the R-1 District and meeting the definition and criteria of a single-family dwelling with an accessory apartment that meets the requirements of Section 721.

Any other application for a two or three family unit in the R-1 District would require the applicant to seek a use variance pursuant to Section 803 (C) (3). Given that a use variance is intended to be a form of extreme relief for unique circumstances, the criteria enumerated 803 (C) (3) (b) are difficult to meet.

Sincerely yours,
David C. Schubel, Esq.

RESOLUTION NO 2025-10
WSM ELDER LAW – LETTER – 77 S MAIN STREET

ON MOTION of Trustee Kenyon, seconded by Trustee Holland, to accept WSM Elder Law Attorney David Schubel's letter as presented and to authorized Clerk-Treasurer Buffin to send a copy to Karen Kinter CEO of Oak Orchard Community Health, Steven Vann, Richard Hellert, Deb Boyer, Attorney Katherine Bogan, the Village of Lyndonville Zoning Board and the Orleans County Department of Planning and Development Director Corey Winters.

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

ON MOTION of Trustee Holland, seconded by Trustee Kenyon, to adjourn the meeting at 6:41PM.

Vote: 3 Ayes (Belson, Holland, Kenyon); 0 Nays; 0 Abstain

Teri M. Buffin
Clerk-Treasurer