

Village of Buchanan
Mayor & Board of Trustees
Regular Meeting
Monday, November 1, 2010

PRESENT:

Mayor Sean Murray
Trustees Richard A. Funchion, Theresa Knickerbocker, Brian Smith and Nicholas Zachary
Village Administrator Kevin Hay
Village Attorney Stephanie V. Porteus
Village Secretary Susan F. Matthews
George Pommer, Hahn Engineering

1. PLEDGE OF ALLEGIANCE:

Mayor Murray opened the meeting at 7:30 PM, welcomed everyone, informed them of the fire regulations and led the Pledge of Allegiance.

2. APPROVE MINUTES: September 15, 2010 Workshop Meeting

Trustee Funchion had a correction on page 2, paragraph 2, line 6: change “here” to “there”, and line 17 change “god” to “good”. Trustee Knickerbocker had a correction on page 9, paragraph, line 12: change “cost” to “coarse”. Trustee Zachary had a correction on page 1, paragraph 3, line 11: change “cost” to “coarse”.

A MOTION to approve the minutes of the September 2010 Workshop meeting as amended was made by Trustee Funchion, seconded by Trustee Zachary, with all in favor.

3. COMMENTS FROM THE FLOOR: (agenda items only)

Sam Cherchia, Westchester Avenue, commented about the Inter-Municipal Agreement (IMA). He remarked that he did not believe that Village Attorney Porteus had drafted the agreement. He commented that the last time he was at the Board meeting, he said that nobody ever discussed Henry Street and Second Street; the latter not being mentioned until two weeks ago. He was told that it was in the minutes. He did not find it in the minutes of June, July and August. The contract was signed in August. As to its having been discussed, he does not find to be true.

He commented that concerning the IMA, there is an individual party, Joe Bilotta, approving it. The IMA is between the Town of Cortlandt and the Village. An individual citizen has no say on this whatsoever. Mr. Cherchia commented that if it is meant to ratify something in the contract, it does not change the contract at all. He thinks that is an attempt in paragraph 10 of the contract. He wanted to know if they did not think that a contract is necessary for Second Street. Paragraph 10 is something that Trustee Smith raised at the last meeting. Mr. Cherchia feels that nobody paid attention to it. Nobody bothered to mention that the Village is not covered by the insurance.

Now they say the certificate of insurance includes the Village as a named insured. Mr. Cherchia read the Memorandum of Understanding to be signed by Joe Bilotta. Mr. Cherchia wanted to know why that was in there. He felt there was no reason for it. He commented that the reason for an IMA is that two municipalities get together in advance and decide to do something and share the cost. This still has to be executed in advance. After this contract is signed, the Board comes along with an IMA. He commented that to make matters worse, they throw in Henry Street which was never mentioned before. It needs to be paved. The Board did not mention it until two weeks ago at the Workshop and now it is incorporated. He feels that they do not believe they need a contract and are going to spend \$94,000 without a contract. The original bond issue was for \$950,000. He believes that the residents were entitled to assume that this money would be spread out and not limited to three streets, which it is going to be after all the fees for the Hahn engineering firm and after expenses are paid. He reads in there that the \$94,000 is not locked in and there may be higher costs. All Bilotta has to do is to come to the Board and ask for more money which Mr. Cherchia feels he will get. For \$950,000, the people will get three streets paved. He feels that the second half of Second Street needs paving worse than anyone else. Mr. Cherchia commented that the Board is not being fair to the people. They are not discussing this in advance. It is his understanding that Burke Court is falling apart. The Board does not even discuss it. They just ram it through. It is not fair to the people of Buchanan. The residents and tax payers are not getting their money's worth and they do not even know about it being spent.

4. OLD BUSINESS:

a) DISCUSSION ON PROGRESS OF ROADWAY PROJECTS.

Mayor Murray commented that since the Board decided they have to pave the roads and the bond issues was passed, going back to the May 3, 2010 Village Board meeting he stated that we are going to enter into the bid with the Town of Cortlandt. He read from the minutes of that meeting where he spoke about having a reduction when they jointly bid of approximately \$85 per ton. We purchased our asphalt for \$79 per ton, which represents a savings. This came from an idea after the Mayor had spoken to some other mayors in the Town of Greenburgh where there were multiple municipalities involved and they realized similar reductions. Through the analysis of our Village Engineer, we saved approximately 6% on the cost per ton of the asphalt.

Mayor Murray referenced the Village Board meeting of April 6, 2009. There was a letter from the Highway Foreman to the previous mayor requesting that six streets needed rehabilitation. Bleakley Avenue, Henry Street and Second Street were the top three. They were followed in order by Westchester Avenue, the lower part of Second Street and Third Street from Tate Avenue to Center Street. One of the reasons the Board had not included so many roads in the beginning of year was that Bleakley Avenue, which has not been paved in 50 years, would take up the majority of the work. Similar to the two contracts with ELQ who is paving Bleakley Avenue and Bilotta who will be paving Henry and Second Streets, there are provisions for

additional work in the event they run into other problems such as valves that may need to be replaced that were not in the original bid. When something like that occurs, the Village Engineer will be contacted and verify the need. He will then come to the Board and request the increase of funds. The Mayor commented that when you are working with a road that has not been repaired for 50 years old, with collapsed drainage and which will cost approximately a half million dollars, you cannot anticipate every problem. You have to have caveats in there to do it right the first time. We have our Village Engineer.

Mayor Murray commented that there was a big discussion last month about how certain costs had come about concerning Henry Street. The Board would like to go over how the costs estimates were put together. The Mayor called on George Pommer of Hahn Engineering to explain how the cost estimates for Henry and Second Streets were put together, the difference between the two streets and how the length of the road was determined.

George Pommer of Hahn Engineering commented on clearing up Mr. Cherchia's comments of three streets costing \$950,000. Bleakley Avenue was \$520,000; Henry and Second Streets were approximately \$90,000 each. That totals \$700,000, leaving \$250,000. The Village is getting three streets for \$700,000.

Sam Cherchia commented that one road is \$94,000, the other is \$92,000 and he presumes that the bill for Hahn Engineering's services is a charge against the bond. Mr. Pommer advised that regarding the latter, the way they do this, the reason for doing the bidding for Henry and Second Streets is so the Village saves that cost. There was no engineering involved with those streets. All that cost was by the Town of Cortlandt. With Bleakley Avenue, they did charge for engineering services to design the road put it out to bid. Mr. Cherchia commented that according to one of the bills submitted by Hahn Engineering, Keith Phillips expended eight hours to review the bids with the Town of Cortlandt. Mr. Pommer advised that was correct. It is post-bid, not pre-bid. Mr. Cherchia understood. There is no engineering prior. After the bid, he took all the bids and they put together a letter to the Board. They looked at all the items. They advised that they think Henry Street needs 500 tons of asphalt; 100 tons of hand laid asphalt. They went through it line item by line item. They are paying for exactly what they get. If they buy a ton, they get a ton. Mr. Cherchia commented that he understands Mr. Pommer to be saying that their firm had no involvement prior to the bid received by the Town. Mr. Pommer advised that they did have some involvement. They talked to them and worked through the items and quantities. It was very minimal so that the Village has the opportunity to get a better cost for asphalt. For example, Bleakley Avenue was \$87 per ton which was reduced to \$79. The Village saves on the engineering that they did not do.

Sam Cherchia wanted to know who monitors the construction. Mr. Pommer advised that they would do that periodically. There are costs there. They keep it to a minimum. They do not have someone there eight hours per day. They may have them out there half the time if they think it is appropriate. They need somebody out there to collect the tickets and insure that they are getting

the asphalt. Mr. Cherchia commented that they are going to do what is necessary. Mr. Pommer advised that they come up with their \$92,000 estimate for Henry Street. They did the same for Second Street and Mr. Pommer noted that the cost is about the same. The reason is that they need that much more asphalt. The road is in very poor condition. It needs twice as much asphalt to build it up. It is basically a road reconstruction. On the question of why, if one is 650 feet and the other 1100 feet, are you paying the same price, it is because you are putting that much more asphalt on the one road. They have a spreadsheet that was attached to the previous memorandum. He would be willing to go over its specific contents if requested. He commented that the Village is doing a good thing. They are joining with another municipality. A lot of other municipalities do the exact same thing.

Trustee Smith commented that he thought the contract is a simple overlay of two inches. Mr. Pommer is now implying it will be four inches on Second Street. Mr. Pommer commented that was correct. Trustee Smith wants in the future for him to go into more specific detail so this does not happen because in the last two months Trustee Smith was not getting answers from his firm and he did not know what it was. He thinks that a simple explanation of whatever the problem was, by not saying anything it was creating the appearance of something improper going on. Trustee Smith commented that it caused a lot of aggravation for him and some others. Things are not shaking out the way he thinks they should have and he is not getting answers. That is a concern to him.

Mayor Murray commented that there were so many different communications back and forth. Last month, he asked Trustee Smith to do communications through the Village Administrator so that there was a single point of contact so that information could be disseminated properly. When this came up, the Mayor asked the Village Administrator the same question as to why it was the same amount. The Mayor was advised at that time, two weeks ago, that it was because more milling was needed because there was more cracking and other reasons. The Mayor wanted to know if Trustee Smith had asked the Village Administrator. Trustee Smith commented that you have to send a memo to the entire Board, not just to him. The Mayor commented that if you have a question, you go to the people who have the answers. The Village Administrator has the answers. The Mayor had asked Trustee Smith to communicate through the Village Administrator before. He could have cleared this up the last month. Trustee Smith said that he had communicated his frustrations to the Village Administrator regarding that and made it clear that the entire Board should be made aware of what is going on in this contract, not just him. Mayor Murray commented that everybody is not going to have the same question as Trustee Smith. If Trustee Smith has questions about a change and feels that the amount of money is wrong, he should ask the Village Administrator what the issue here. Mayor Murray understands that Trustee Smith frequently comes to the Village office. He wanted to know if Trustee Smith had the opportunity last month to bring up to the Village Administrator that he had a concern about a disparity in the money. Trustee Smith commented that he asked him that and reminded him to not only tell him but the entire Board because they had to vote on it tonight. He

did not know if the other Board members have more questions regarding it, but he feels it could have been easily answered if everybody knew it two weeks earlier and not 20 minutes before they have to vote on it. Mayor Murray commented that Trustee Smith received that package last Friday. It was not with just 20 minutes to go. Trustee Smith commented that there is no mention of four inches of milling in there when the contract only calls for two. It would be easier to clarify it to the entire Board versus just one individual. He feels that there is a need to improve communications because they are not communicating. Mr. Pommer commented that this is the first time they are doing this with the Town of Cortlandt. Our engineers are not that familiar with the Town's engineering spec nor they with ours. It is the first time through so they tried to minimize it. It is why they put one street on there and not more. It was just to see how all the issues come up. That is one of the issues. Maybe they have to add that to the next one more clear because we are asking them to do more than they want to do. The Town of Cortlandt wants to take off 2 inches and put down 2 inches. We want to do more than that and we need the contractor to agree to do it. Mr. Pommer commented that maybe this is not the perfect contract or spec but it is what we have to work with for this go around and we can make it better on the next one.

Trustee Zachary commented that his question about why the cost was the same even though the square footage is double has been answered. The IMA covers the Henry Street paving and the Village is doing Second Street directly with Bilotta. He wanted to know if we would normally need a contract for that, or is there not going to be one and it is an extension of the IMA for Henry Street. Village Attorney Porteus advised that the contract included Henry Street. The question is adding Second Street. In the contract, there are provisions for extra work if it becomes available. Mayor Murray noted the page numbers in the contract. Village Attorney Porteus advised that it was hand written in. As Mr. Pommer explained, they kept it minimal and kept the provision concerning the same unit price for extra work. With the IMA, they have clarified that because there were things missing from the contract that needed to be addressed. They are going to amend the contract and name the Village of Buchanan as an owner. If you follow the contract terms on through some of them apply to us. Mayor Murray read the section of the contract pertaining to extra work. Trustee Smith wanted to know if that was the Town Engineer. Village Attorney Porteus advised that with the IMA, it will now be the Village Engineer as well. The "Hold harmless" did not say "the owner". It said the Town of Cortlandt. So they are having a new "Hold harmless" because even though you amend the contract to say that we are an owner, they had to go through and make sure it said owner and Village of Buchanan everywhere. We are now the owner. There are certificates of insurance. The reason we are doing a Memorandum of Understanding, is because when we amend the contract, the contractor must also sign it. Before we have our mayor sign it, we want to make sure the contractor is willing to agree, because last month there were concerns because we are paying three or four times what everybody else is paying, that he is doing the entire length and width of the road at the price he bid, with the Town of Cortlandt. We are trying to cover every base thoroughly.

George Pommer advised that the contractor is not signing the IMA. He is signing a letter of understanding which is not the part of the IMA. They are not linked. One is an understanding of the other.

Sam Cherchia commented that the contractor is basically consenting to the IMA. He has no standing to consent to it. It means nothing. The Town of Cortlandt and the Village of Buchanan are the only parties who are really interested in the IMA. He feels it does not need to be attached. It should be an amended contract. Village Attorney Porteus advised that the contract is going to be amended to include the Village of Buchanan as owner. She commented that if anyone does not want the Memorandum of Understanding because they feel it does not need to be there, she is the Village Attorney. She drafted it. She wanted it there. Mayor Murray advised that it is going to be there.

Mayor Murray wanted to know if there were any further questions for Mr. Pommer. There were none.

5. **NEW BUSINESS:**

a) **10-73 RESOLUTION AUTHORIZING PROPERTY TAX REDUCTION AND TAX REFUND.**

Mayor Murray read the Resolution (copy attached).

A MOTION to adopt this Resolution as presented was made by Trustee Funchion, seconded by Trustee Knickerbocker, with all in favor.

b) **10-74 RESOLUTION AUTHORIZING TRUSTEE ATTENDANCE AT CONFERENCE**

Mayor Murray read the Resolution (copy attached).

Mayor Murray commented that this is a conference on the Historic Hudson River Towns. Several months ago, we became involved with them and some other organizations. This is the first conference. They generally do not have conferences in the summer. He has asked Trustee Funchion to be the liaison between the Village and the Historic Hudson River Towns to see what they can offer our village, whether in helping with applying to grants or anything that may be available. We have not been a member for many years. There are certain grants available for municipalities, especially those that discharge into the Hudson as Buchanan does with our sewage treatment plant. Trustee Funchion can get some contacts, information and other seminars and give the Board a report.

A MOTION to adopt this Resolution as presented was made by Trustee Zachary, seconded by Trustee Knickerbocker with all in favor.

c) **10-75 RESOLUTION ACCEPTING RESIGNATION OF PLANNING BOARD MEMBER AND CHAIRPERSON.**

Mayor Murray read the Resolution (copy attached).

Mayor Murray read the letter of resignation from Wayne Moraitis. He is moving to Florida. He had previously been an elected Trustee in the Village; a Planning Board member after that; and held various positions. He was the longest serving Chairman of the Planning Board, since 1984. The Mayor commented that he has always exhibited professionalism. His guidance to the newer Planning Board members was indispensable. The way he acted with the applicants was fair. Mayor Murray wished him all the best. His shoes will be hard to fill.

A MOTION to adopt this Resolution as presented was made by Trustee Funchion, seconded by Trustee Knickerbocker with all in favor.

d) **10-76 RESOLUTION APPOINTING PLANNING BOARD MEMBER AND CHAIRPERSON.**

Mayor Murray read the Resolution (copy attached).

A MOTION to adopt this Resolution as presented was made by Trustee Funchion, seconded by Trustee Zachary with all in favor.

Mayor Murray appointed Ben Martinelli as the new Planning Board Chairperson and Michael Scott as Planning Board member, both to fill the unexpired term of Wayne Moraitis. This is a mayoral appointment and no roll call is needed. Ben Martinelli has been the co-Chairman of the Planning Board for several years. When the Mayor served on the Planning Board, Mr. Martinelli acted in that position. He commented that it is tough to fill Wayne Moraitis' shoes but Ben Martinelli has done a good job. There are new members on that board and Mr. Martinelli has the most experience. Michael Scott is a professional firefighter in the Hudson Valley VA at the FDR campus. He has firefighting experience. He has been Fire Chief of Buchanan Engine Company. He has had training in building codes and is familiar with hazardous materials storage requirements. When Mayor Murray served on the Planning Board, he had some of those same questions. When people came before that board, he thought that his experience as a HAZMAT technician and at Indian Point helped out in that field. He believes that similarly Mr. Scott's will as well. Sometimes the applicant does not know what the OSHA and building requirements are

and what might affect the neighbors in an emergency. The Mayor invited Mr. Scott to rise and introduce himself. He knows he is going to do a good job. Mayor Murray looks forward to seeing his input in the minutes of the Planning Board.

e) **10-77 RESOLUTION AUTHORIZING MAYOR TO ENTER INTO AN IMA WITH TOWN OF CORTLANDT FOR JOINT ROAD PAVING PROJECT.**

Mayor Murray read the Resolution (copy attached).

A MOTION to adopt this Resolution as presented was made by Trustee Funchion, seconded by Trustee Zachary with Mayor Murray, Trustees Funchion, Knickerbocker and Zachary in favor, and Trustee Smith opposed. The MOTION passed by a vote of 4-1.

Trustee Zachary wanted to know why since it is given that we have a price of \$92,000 and \$94,000 respectively for Henry and Second Streets, does it say an estimated amount of \$190,000. If the figures are locked in, he wanted to know why it is estimated. Village Attorney Porteus advised that they are not exact figures but are the engineer's best estimate. They are as close as you are going to get. Until the work is actually done, it is not possible for them to give an exact price. Trustee Knickerbocker commented that any time there is construction, there are cost overruns from unexpected needs. Mayor Murray commented that the total estimate, going by those exact numbers, is almost \$187,000; a \$3,000 difference just in case. If anything goes over that, the Village Engineer would have to come back with a change order. Trustee Zachary commented that it might come in lower as they deliver the asphalt.

Trustee Zachary wanted to know if there was any protection that it cannot go over a certain amount. George Pommer advised that this is the Village's protection. If something should happen, they would have to come before the Board and explain the reasons why it will go over that amount and the Board needs to approve it prior to doing that work. The numbers were rounded off to \$190,000.

Mayor Murray read the whole Inter-Municipal Agreement.

Trustee Knickerbocker commented that the Mayor had reported by doing this IMA and the bulk buying, the Village saved approximately 6%. Mayor Murray advised that it was the estimate of the Village Administrator and Village Engineer. If you look at several of the other bids, the cost of asphalt was higher. There are estimates as high as \$100 per ton. We have gone down to \$79 per ton. It is the first time we have ever done this. The Mayor commented that hopefully next year, we can get other municipalities to do even larger projects to save even more taxpayer dollars and get even more work done. He commented

that the first time you do anything different, it is difficult when you are working with different entities. You have two different attorneys, engineers and two different everything. The Mayor thinks we have set the ground work. We know the pitfalls and what to look out for when we do this again. It has taken the Village Attorney a lot longer to sort out some of the paperwork. He thinks it is a good thing. It is something going forward that we can take advantage of.

6. EXECUTIVE SESSION.

At 8:16 PM a MOTION to go into Executive Session to discuss anticipated litigation with Clear Channel was made by Trustee Knickerbocker, seconded by Trustee Funchion.

At 8:43 PM a MOTION to come out of Executive Session was made by Trustee Knickerbocker, seconded by Trustee Funchion with all in favor. Mayor Murray advised that no public funds were expended. There will be an update in a couple of months. The Mayor advised that the Village is in negotiations. There is potential litigation which cannot be discussed. It concerns the billboards. Village Attorney Porteus advised that at the time, it was Eller Media.

7. INFORMATION FROM OFFICERS AND DEPARTMENTS.

a) Justice Court Report – September 2010

Received.

b) Police Report – September 2010

Received.

Mayor Murray commented that our Police Department has been very busy in recent months with over 100 summonses per month written and patrolling over 4,000 miles per month.

c) Attorney's Report

Village Attorney Porteus reported that at the Workshop meeting, the Board requested her to look into a road opening permit fee. She has spoken with Village Administrator Hay. Our Code addresses this issue already. She advised that the best way to do this, since the Board has expressed an interest in changing fees, is to pass a local law which would allow amending fees annually, such as at the Organizational Meeting, rather than plugging out different areas of the Code. She feels it would be the better way to do it. She can draft a memo on this. Or if the Board

chooses, she can do it as originally requested, by amending it to a specified amount. That would require a Public Hearing and may involve other parts of the Code.

Mayor Murray feels it is better to have a fee schedule which is easier to amend than a Code. A lot of our Codes have not only fees but penalties written into them. If we can pull those out, we would not have to change all the Codes, just one page of the Code book.

Trustee Knickerbocker wants to get something in place quickly. Currently, the utilities are not charged for a road opening permit. We have different places where for example, Con Ed has come in with the gas line and they are not settling well. There needs to be another coat of blacktop. There are several places like that in the Village. Currently, they just come in and dig up and there is no permit. Mayor Murray advised that they do have to come in and tell us. Trustee Knickerbocker feels we should have some fee. Mayor Murray advised that we have to go through the same process whether we do a fee schedule or enact a fee into our Code. It is the same length of time and the same Public Hearings are required. If we can tackle everything at once now, the Board can incorporate everything, not just one Code. He understands the immediacy of wanting to get the roads fixed as soon as possible but the time frame is the same whether they go with one Code or all.

Village Attorney Porteus advised that they could do a combination of both; the fee issue at once, taking care of all of them. Most municipalities do this now. At the Organization Meeting you would do the building permit and other fees. She understands there should be clarifications on when you can open the road and associated bonds and fees. She does not think anybody is enforcing this. It could be done and clarified as two different issues.

Trustee Funchion commented that if the Board could take out fees and fines or monetary figures, those are going to change much more quickly due to changes in the economy than the desire of the community to change Codes. He feels it makes sense to separate them out.

Mayor Murray commented that they put together a fee schedule and get them out of the Code. He would like to have a Public Hearing in December. Village Attorney Porteus advised that was too soon because they need a draft to be reviewed and commented on at the Public Hearing. She can prepare one and the Board could set it for January. Mayor Murray concurred.

Village Attorney Porteus reported that she has been asked to look into the issues concerning the Executive Session and FOIL requests. She is halfway through with that memo. The two issues are both intertwined and separate. She is looking to clarify them for the Board so they will have real guidance. She feels that guidance is needed. She will have it for the next Workshop session. She advised the Board to call her with any questions.

Village Attorney Porteus reported that the Mayor was the only one who had any comments or questions on the employee handbook. She and the Village Administrator are going to put it into final form.

Village Attorney Porteus reported on the issue with White Street. Trustee Knickerbocker had asked about some residents who were questioning the ownership and an easement there. Trustee Knickerbocker commented that there were issues there about some huge potholes and who is responsible to do something about them. There is a situation going on there which she feels is dangerous. Mayor Murray noted it was at the bottom of White Street. The Village Attorney commented that she is familiar with it. She has read the easement but feels that someone should probably take her out there to walk it. The easement is maintained by the people who live there, the businesses. That is the way it is written. The businesses would be responsible as long as it is the same area as the easement describes. George Pommer advised that there is a discrepancy where the road ends and the easement starts. Mayor Murray said that has been the whole thing with the business down there as well. Mr. Pommer advised that he, the Village Attorney and Highway Foreman Jeff Tiernan would go down there. Jeff Tiernan knows where it starts and ends. Village Attorney Porteus noted that the Building Inspector is also good with these determinations. Mr. Pommer believes they can come to a reasonable conclusion. The Village Attorney will report to the Board so it can be settled. Trustee Knickerbocker commented that there is a definite problem there and whoever has to repair it, it is not in good shape.

d) Trustee's Reports:

Trustee Smith wants there to be good communication. He really does not want to go through this again. He knows it is a learning curve. He commented that hopefully the next agreement will be a little more bulletproof with less confusion.

Trustee Funchion reported that he attended the Saint Patrick's Day Parade Committee meeting. The parade will be on March 13, 2011.

Trustee Funchion is beginning to look into any interest in the formation of a Buchanan business persons' meeting to address the concerns particular to businesses in the Village versus homeowners. In the next few months, he would like to get a letter out to businesses to see if there is any interest and what we can do within the confines of the Village.

Trustee Zachary urged everyone to get out and vote on Election Day.

Trustee Zachary reminded everyone that he asked to do a mid-year budget review. This is scheduled for the next Workshop. He is not looking for the Board to decide next year's budget, just to intercept things that take a little planning and for ideas. He hopes that everybody has a little time to come up with ideas concerning how to save or generate funds, and to pool their ideas at the next Workshop.

Trustee Zachary reported that they are still working on a Buchanan Day Committee. They have not decided whether to be an independent or an official committee. He would like to discuss this at the next Workshop. They are just meeting as a group temporarily to pool ideas. They are not

official. They are only a group of people exploring some ideas. They will next meet on Wednesday, November 10 at 7:00 PM.

Trustee Knickerbocker reported that she attended the Halloween Party in the Community Room. There was a huge attendance and the room was packed. It was great to see all the little ones dressed up and everybody had a good time.

Trustee Knickerbocker announced that there is a container in the lobby of Village Hall for a Veteran's food pantry which goes to the Veterans' food pantry at the V.A.

Trustee Knickerbocker reported that she has spoken to Fred Testa of the Environmental Funding Corporation (EFC). The next cycle had gone through. We did not get the best funding that we could. But we maintained the original funding that we were approved for last year.

Trustee Knickerbocker was glad that George Pommer was at this meeting because she had some questions about the Sewage Treatment Plant (STP). We got a memo on October 13 in reference to the SPEDES permit. It is her understanding that it is not due until 2013 as part of the permit modification. She wanted to know what that permit modification was. George Pommer advised that when the State does the SPEDES permit, Buchanan fell into a certain category where they wanted to do additional monitoring. That is the modification being referred to. Mayor Murray wanted to know if that was for increased frequency. Mr. Pommer advised that it was for increased frequency, PH, outfall into the Hudson. Village Engineer Hahn had mentioned that. Trustee Knickerbocker wanted to know if we have to wait before we can proceed with the plant until they see what the modifications are with the SPEDES permit. Mr. Pommer believes that they were mutually exclusive. Mayor Murray advised that they are two separate things. One is the determination from New York State on whether we have to remove nitrogen. If they have that ruling that we do, it would change our SPEDES permit because we would have to monitor it and have limits for its discharge. When they make the determination it will be the mitigating factor in what type of aeration we use. If we have to remove the ammonia, we would probably have to go to the small bubble and could not use mechanical aeration. They are exclusive. When the SPEDES permit is modified according to State requirements, we might have to change our monitoring.

Trustee Zachary commented he asked questions when the Village Engineer was here, about nitrogen removal and if it was related to the aeration. The Village Engineer basically advised that no, there was another process to get rid of the nitrogen. Trustee Knickerbocker commented that it was another piece of equipment. Trustee Zachary wanted to know why if the nitrogen levels that are acceptable are lowered it would indicate going to fine bubble diffusion if that is not related. Mayor Murray advised that one process is removal and one is mitigation. Ammonia has nitrogen in it. Once you break up the ammonia, you can discharge the nitrogen. If the State puts up a different level that you are allowed to emit, we would have to remove it. So there would be two separate processes, which the State has not determined yet. If we have to remove

the nitrogen, that would add a separate process. If we just have to change the ammonia through the aeration system, we would not have to change to bubble diffusion.

Trustee Knickerbocker commented that the Board had that report on September 15. They were supposed to have an update on the nitrogen and ammonia a few weeks later. It has now been a month and a half. There was supposed to be a decision made. Mr. Pommer advised that nothing has come through. Trustee Knickerbocker wanted to confirm that currently the Village is in compliance with the DEC, Health Department and EPA. Mr. Pommer confirmed that we were. Trustee Knickerbocker wanted to know if with this SPEDES modification, we cannot move forward with the technology we wanted until that has been monitored for six months. Mayor Murray advised that per the memo they received, we probably will not get a determination for six months. Village Engineer Hahn has been checking with them frequently. They have still not made that determination. The memo that he sent out with the six month time frame is the best estimate he has received from the State. The Mayor commented that they are probably tired of Mr. Hahn calling them for the information. George Pommer commented that we are at the mercy of the State. Mayor Murray commented that if they will not tell us what they are going to require us to do, we cannot move forward.

Trustee Knickerbocker wanted to know the current dissolved oxygen level with the aeration for the tank. George Pommer advised that he was told it was three times higher. She wanted to know if George Smith would know. Mr. Pommer believed that he might. Trustee Knickerbocker commented that we knew that a couple of weeks were needed to see how it settled and where it would be. Mr. Pommer advised that Village Engineer Hahn had advised him tonight that it is three times higher than it was before. By moving to the other side, there has been a significant improvement. Trustee Knickerbocker commented that we have been working on the plant for a while. She wanted to move forward and make the decision. But the State is holding us up.

e) Mayor's Report:

Mayor Murray reported that he attended Buchanan Engine Company's Fire Prevention Day. He thanked the Fire Department for doing outreach in the community. They went to all the schools: B/V and Looking Glass Pre-School. They spoke to the kids and teachers. The kids have questions. When you go to somebody's house, it is better when the kids are not afraid of you. This year, there was a good attendance. He appreciated the residents coming out to learn things.

Mayor Murray thanked the Police and Fire Departments for patrolling during Halloween. He commented that you saw lots of the apparatus out helping the Police Department. There were no major incidents because of the police patrolling and the volunteers.

Mayor Murray reported that a couple of weeks ago, Cheryl Murray, the Village's liaison to Entergy, went to a Stakeholders Meeting there. One of the big things presented was that Entergy received permission from FEMA to remove the old siren system. They will be removed starting

next spring. They were waiting for FEMA to accept the new siren system being tested. Residents have heard the quarterly testing that goes on for five minutes each time. That is the only thing that came out at the Stakeholders' Meeting.

Mayor Murray announced that the Christmas Tree lighting at the Village Circle will be on December 5. We always have a good turnout, no matter the weather. The Mayor noted that last year, we had a lot of people even though it was close to 0 degrees. The lighting will be at the Village Circle and afterwards, everyone is invited to the Community Room at Village Hall.

Mayor Murray reported that this month, they went to the Veterans' rally in front of the V.A. to let the politicians and the public know that the elected officials in our area and Village supports keeping the FDR V.A. facility open. The Mayor commented that in recent months we have not heard much about the proposal to have the land privately developed, possibly because the credit markets have dried up so much that the developers cannot get the funding. However, he and many people are afraid that when funding does become more available, the Federal government will lease that land away. It would be a serious impact to residents in our area. The Mayor encouraged all veterans in the area to sign up for their benefits card there. He encouraged noted that a lot of veterans do not sign up. He encouraged all to do so regardless of how long it has been since their discharge. The more people enrolled there for services, the stronger the chances of keeping it there for the veterans.

Mayor Murray announced that the Town of Cortlandt will have a Veterans Day ceremony on November 11, at 12:30 PM, at the Community Center on Westbrook Drive. There will be a service at the FDR V.A. on Tuesday, November 9, at 10 AM, in Building 15, Room 16.

Mayor Murray reminded that voting is very important. We do not have any Village elections this November. We get a relatively good turnout in March but our representatives are up for election now. The Mayor reminded everyone to allow extra time for voting since we are using the new voting system.

Mayor Murray thanked Recreation Supervisor Nancy Bayer and Mike Baisley for putting together the Halloween parade. The Mayor was unable to attend because his son got sick. They did a great job every year. It takes a lot of effort. It is nice that the community can give back to its residents like this.

Mayor Murray wished everyone a Happy Thanksgiving and a Happy Holidays. He hopes to see everyone on December 5 for the Christmas tree lighting.

8. COMMENTS FROM THE FLOOR:

Angelo Iacomini, 6 Donahue Court, commented on road repair. He wanted to know if anybody holds any kind of property damage insurance for anything that might happen during the road work repair. He related a situation with one of his children. When the road was paved, the car

was sprayed with something and it is all over the car. Mr. Iacomini went to the municipality to see if they are going to take care of the issue. He wanted to know if something like that should happen on Village property to a vehicle, would the Village or the contractor be liable for those types of damages. Mayor Murray advised that there are stipulations in the contract. Village Attorney Porteus advised that the Village will be named as additional insurer on their liability and Workers' Compensation policies. If it happened here, you would make the claim and it will be forwarded on. You would then proceed with the contractor's insurance company. Mr. Iacomini wanted to know who the contact in the Village would be. Mayor Murray advised that it should go to the Village Administrator

Angelo Iacomini commented that there was an article in the newspaper on October 20 where it quoted that area municipalities' courts, including Buchanan, had mishandled funds. In the Village's case, it was reported as a matter of \$2500. He wanted to know if that was part of the Comptroller's audit of the Village records. Mayor Murray advised that it was an audit of the court. There were several Comptroller's audits. One was for the Village finances, policies and procurement procedures. There were two audits of the court between late 2008 and January of 2009. We had one in 2008, then they came back and did another. The newspaper article was a synopsis of all of the court audits that had been done. After the article came out, we received a separate one specifically pertaining to the Village court system. We have 90 days to reply to it. The Village Justice is going to reply. After Mayor Murray received the letter, he discussed adding it into the auditor's contract. After the audit came out, the Board reviewed the laws and responsibilities of the elected officials. Part of that is to audit the books of the court. The Board was not made aware of that until the Comptroller came and told them. The Justice is in the process of reviewing their comments and the Board is in the process of auditing their books. The State sent out two separate things. One was specifically for each court system which they are required to respond to. It referred to the internal controls and lax internal controls, policies and procedures that the State did not find to be as efficient as possible. They are not alleging missing funds but that the funds were not transferred in the time frame mandated by the State and that the internal controls were not adhered to. The issues are being addressed by our Justice and our auditor is going to be auditing our books.

Mr. Iacomini commented that he had shown Trustee Smith an article on the sewage treatment plant, capturing nitrogen. Trustee Smith commented that there is a method to capture nitrogen. The volume we have is not there to justify that.

Mr. Iacomini commented that the window for receiving the repair and maintenance money from Entergy each year is between March 31 and June 1 of the following year. He wanted to know if there was a number on how much the Village expected to receive. Village Administrator Hay advised that we have sent a bill to Entergy. It was for around \$72,000. Mr. Iacomini wanted to know if that can be used toward the bond payment. Mayor Murray advised that there are no stipulations in the Code or contract. We do not have a separate budget code for it. When it goes into the General Fund, it will be used to pay the bond. The Board had discussed this. We are not

allowed to set up our own code and description on how to use the money. The State says you cannot earmark money which is what Mr. Iacomini is basically suggesting. The Mayor advised that the Board is trying to work a way to put up bonds and grants so that they are easily tracked to see where they go. Mr. Iacomini commented that eventually all the residents are going to foot the bill for these bonds. So whatever can be brought in to defray the costs to the residents needs to be done. The Mayor advised that whatever goes into the General Fund or a separate line item, all the money will be disbursed the same way. The money to pay back the bonds whether it is from the money received in June or in May, is all coming from the same place. One thing the Board discussed during the budget hearing was to set up a separate fund using that money specifically for the maintenance of the plant. To do that, they would have to find another \$70,000-\$80,000 to offset what the tax increase would be. The Mayor would very much like to set up a maintenance fund for the sewage treatment plant and one for vehicle maintenance. Last year at the budget hearing, we did not have a vehicle repair fund. The Board had to allocate an extra \$20,000 to rotate the vehicles through a rehab program instead of letting them fall apart and then having to purchase new ones at an increased cost. He noted that Trustee Zachary had also suggested that. We have not yet received the money from Entergy. The Mayor has asked the Village Administrator to add every cost. It took some time to itemize each one of the bills because we had just a single gross budget of \$533,000 for the operation of the plant. The stipulations in the contract specifically state that the money received from Entergy to deposit in the sewage treatment plant is not to be used for capital improvements as defined by normal accounting means. Normal accounting means state anything that is to be paid back in shorter time period than we are going to be bonding. Technically, the Board is not allowed to allocate those funds specifically for repayment. They have to follow the rules set forth in our contract and by the State. Mr. Iacomini commented that in the past when we did have broken stuff, that money could have been used for that. But it was not. Mayor Murray advised that was right. He commented that when you talk about capital improvements and normal operational maintenance, all those costs which are listed in the contract that is all we can use that money for.

Mr. Iacomini commented that he knows the Village had money coming in from Cook. He wanted to know if we have received revenues. He noted that \$100,000 was tossed around and wanted to know if we are getting closer to that number. Village Administrator Hay will put those numbers together and can have them for the next meeting. Trustee Zachary noted that he had asked this question when the Board was going through the budget process last Spring. He commented that concerning the work being done on the sewage treatment plant, there is a long term payback with the bond. As a rule, long term payback is the tax method used for capital improvements as opposed to operation and maintenance. He feels that when we break down everything that is going to be done and that has been done to the STP, a lot of that should fall under Maintenance. He feels that the \$800,000 to \$1.6 million that will be spent there has to be broken down item by item. We may have to sit with our accountant but he feels that they have to separate out whatever can be deemed as maintenance and see if there is way to put that into the

total maintenance costs for the year. They can then take Entergy's percentage and bill them. He does not think we should let this go by without finding some way to bill that portion to them.

AUDIT THE VOUCHERS:

At 9:18 the Board audited vouchers.

9. **ADJOURNMENT:**

At 9:30 PM a MOTION to adjourn this meeting was made by Trustee Knickerbocker, seconded by Trustee Funchion with all in favor.

General Fund: _____ Water Fund: _____

Capital Fund: _____ T&A Fund: _____

See Abstract of Audited Claim Vouchers for details.

Kevin Hay