

**Village of Buchanan
Mayor & Board of Trustees
Regular Meeting
August 2, 2022**

PRESENT: (This meeting was held live and via Zoom)

Mayor Theresa Knickerbocker
Trustees Anthony Capicotti, Steven Laker, Sean Murray, Daniel Stewart
Village Administrator Marcus Serrano
Village Engineer George Pommer (via zoom)
Village Clerk, Treasurer Cynthia Kempter
Deputy Village Clerk Sharon Murphy

ABSENT:

Village Attorney Stephanie Porteus

1. PLEDGE OF ALLEGIANCE:

Mayor Knickerbocker called the meeting to order at 7:00 P.M. She led the Pledge of Allegiance.

2. APPROVE MINUTES:

June 28, 2022 Workshop Meeting: A motion to approve the minutes as presented was made by Mayor Knickerbocker, seconded by Trustee Capicotti with all in favor.

July 5, Board Meeting: A motion to approve these minutes as presented was made by Mayor Knickerbocker, seconded by Trustee Laker with all in favor.

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

Mayor Knickerbocker removed letter (h) from tonight's agenda.

Eileen Absenger asked if the Mayor would explain who Harper Haines Fluid Control is and sole source when you do the motion. Mayor Knickerbocker responded yes, she would explain. Eileen Absenger questioned letter (g) in regards to the real estate services. She thought we previously used Joe Lippolis and did not get results and asked if we could use someone else. Mayor Knickerbocker stated that he will use a multiple listing. She asked how it was zoned and Mayor Knickerbocker replied it is a C1.

4. NEW BUSINESS:

- a. Consider a Motion to Ratify the MOA Agreement with Teamster's 456 and to include any non-union employees.

Village Administrator Serrano stated that the Teamsters Contract expired May 31, 2022. We agreed to a 5-year contract with a 2.5% increase for the first 4 years and 2% for the fifth year. The employees are contributing more to the health insurance and worked with the Village regarding new employee step increases. Village Administrator Serrano said it was a great contract for both sides and thanked the Teamsters and the Teamsters negotiating team. The Teamsters agreed to the contract unanimously

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Stewart, with all in favor. Trustee Murray stated that since we have this certainty in the future with the contract, we will be able to hire the laborer positions and mechanic position we have open.

- b. Consider a Motion to Approve Change Order #1 in the Amount of \$5,952.82 for Route 9A Sidewalk Improvements Project.

Village Engineer Pommer stated that the changes in the project was mostly due to Con Edison and the non-relocation of an existing gas line. Mayor Knickerbocker said the project is finished and the sidewalk looks great.

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Laker, with all in favor.

- c. Consider a Motion to Approve Harper Haines Fluid Control, Inc. as a Sole Source.

Village Engineer Pommer explained that currently in our system we have CLA-VAL valves. CLA-VAL is the manufacturer of our regulator valves for three of our water meter pits. There is only one company that can make the products that go inside the valves and that is why it is a sole source. No other company makes the product or the internal working of these valves.

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Capicotti, with all in favor. Trustee Murray stated that we have done sole sourcing before, but we do need to have a resolution and a letter from the engineer. We will be modifying our Procurement policy to make this a little easier.

- d. 2022-17 Resolution to Modify the Procurement Policy as Recommended

by Village Administrator.

Village Administrator Serrano explained this is to match the State regulations for procurement. In the future, if a sole source letter comes in, we don't have to wait for a Board Meeting to move forward and delay the purchase of the product.

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Stewart, with all in favor.

WHEREAS, Section 104-b of the General Municipal Law requires the governing body of every municipality to adopt a procurement policy for all goods and services which are not required by law to be publicly bid; and

WHEREAS, on August 2, 2022 the Village Board of Trustees adopted a Revised Procurement Policy, revising a prior Procurement Policy dated September 7, 2010; and

WHEREAS, changes to the law require that the Village of Buchanan again revise its existing Procurement Policy; and

WHEREAS, it is the desire of the Village Board of Trustees that all guidelines related to the procurement of goods and services be contained in one document; and

WHEREAS, the Board of Trustees has reviewed the Revised Procurement Policy and has recommended approval.

NOW THEREFORE BE IT RESOLVED, that the Village of Buchanan does hereby adopt the following revised Procurement Policy which is intended to apply to all goods and services which are not required by law to be publicly bid.

BE IT FURTHER RESOLVED, that the adoption of this policy replaces any previous policies that may have been adopted regarding the procurement of goods and services.

PROCUREMENT POLICY FOR THE VILLAGE OF BUCHANAN

1. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under \$20,000 and public works contracts under \$35,000, emergency purchases, certain municipal hospital purchases, goods purchased from agencies for the blind or severely handicapped, goods purchased from

correctional institutions, purchases under state and county contracts, and surplus and second-hand purchases from another governmental entity.

The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

2. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchase contracts over \$20,000 and public works contracts over \$35,000, goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law, goods purchased from correctional institutions pursuant to 186 of the Correction Law, purchases under state contracts pursuant to Section 104 of the General Municipal Law, purchases under county contracts pursuant to Section 103(3) of the General Municipal Law, or purchases pursuant to subdivision 6 of this policy.
3. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

PURCHASE CONTRACT: materials, supplies, equipment - General Municipal Law, or as amended by statute.

<u>AMOUNT</u>	<u>REQUIRED</u>	<u>APPROVAL</u>
Under \$500	Confirming/0 Quotes	Village Administrator
\$500/ \$2999	2 Quotes (Verbal)	Village Administrator
\$3,000/ \$19,999	3 Quotes (Written)	Village Administrator
\$20,000/ more	Competitive Bid	Village Board

PUBLIC WORKS CONTRACT: labor and materials – General Municipal Law

<u>AMOUNT</u>	<u>REQUIRED</u>	<u>APPROVAL</u>
Under \$500	Confirming/0 Quotes	Village Administrator
\$500/ \$2999	2 Quotes (Verbal)	Village Administrator
\$3000/\$34,999	3 Quotes (Written)	Village Administrator
\$35,000/ more	Competitive Bid	Village Board

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the

purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

4. Documentation is required of each action taken in connection with each procurement.
5. Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible bidder. This documentation will include an explanation of how the award will achieve savings or how the bidder was not responsible. A determination that the bidder is not responsible shall be made by the purchaser and may not be challenged under any circumstances.
6. Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurement for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances it may not be in the best interest of the Village of Buchanan to solicit quotations or document the basis for not accepting the lowest bid:

A. Professional services or services requiring special or technical skill, training or expertise.

The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category the Board of Trustees shall take into consideration the following guidelines: (a) whether the services are subject to state licensing or testing requirements, (b) whether substantial formal education or training is a necessary prerequisite to the performance of services, and (c) whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney, services of a physician, services of an architect, technical services of an engineer engaged to prepare plans, maps and estimates, securing insurance coverage and/or services of an insurance broker, services of a certified public accountant, investment management services, printing services involving extensive writing, editing or art-work, management of municipality owned property, and computer software or programming services for customized programs, or services involved in substantial modification and customizing of prepackaged software.

In the event that the contract combines the provision of professional services and a purchase, in determining the appropriate monetary threshold criteria to apply to the contract, the Village will determine whether the professional service or the purchase is the predominant part of the transaction.

B. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. A public emergency is one which may affect life, health, safety of children and where immediate action cannot await competitive bidding. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety, or welfare of the residents. This section does not preclude alternate proposals if time permits.

C. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Village is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

D. Sole Source, Competitive bidding proposals are not required under Section 103 in the General Municipal Law in those limited situations when there is only one possible source from which to procure goods and services required in the public interest such as in the case of certain patented goods or services or public utility services. This exemption applies to the procurement of goods or services where only one vendor can supply the commodity, technology and/or perform the services required and where there is no substantial equivalent.

The New York State Comptroller's Office, Division of Municipal Affairs, requires that any municipal officers executing sole source documents should be prepared to "factually verify that the goods or services sought might only be obtained from a single source."

The following are examples of circumstances which may justify sole source purchase:

- The compatibility of proposed equipment accessories or replacement parts to existing equipment is essential and the required item is available from only a single supplier.
- An item for trial, testing or teaching purposes is available from only a single supplier.
- A one-of-a-kind item is sold only on a "direct from manufacturer" basis.
- Proprietary software, which is licensed by a company and sole support, is only provided by that company.

Procurement under this sole source exemption must be documented with the following explanations:

- the unique nature of the requirement;
- the basis upon which it was determined that there is only one known vendor

- able to meet the need (i.e., the steps taken to identify potential competitors);
- the basis upon which the cost was determined to be reasonable (i.e., a fair market price was inferred based upon the sole source provider's product catalogs, published price lists and the like.)

In making these determinations, the Department Head should be prepared to demonstrate, among other things, the unique benefits of the patented item as compared to other items available in the marketplace; that no other item provides substantially equivalent or similar benefits; and that, considering the benefits received, the cost of the item is reasonable, when compared to conventional methods. In addition, the department head should be prepared to document, as a matter of fact, that there is no possibility of competition for the procurement of the goods.

E. Goods purchased from agencies for the blind or severely handicapped, with appropriate documentation.

F. Goods purchased from correctional facilities, with appropriate documentation. Consult with Comptroller and Town Attorney for applicability.

G. Goods purchased from, or through, another governmental agency, such as NYS or Westchester County Contracts, when the price, or list price with discount, including all applicable additional charges such as, but not limited to, delivery charges, is available, and with appropriate documentation.

H. Goods purchased at auction, with appropriate documentation.

7. Any and all procurement procedures not specifically covered in this policy will be adhered to as covered in General Municipal Law, Section 104-b.
8. This policy shall be effective immediately and will be reviewed at least annually or at such other times as in the Board of Trustees discretion such review is necessary.

- e. Consider a Motion to Transfer \$1,000 from Adult Recreation Bus (a/c 7620.467) to Adult Recreation-Adult Programs (a/c 7620.464) for the Buchanan Seniors 50th Anniversary Party.

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Capicotti, with all in favor.

- f. Consider a Motion to Retain the Services of Tietjen Venegas Consulting

Engineers, PLLC for the replacement of Village Hall Boiler.

Village Engineer Pommer explained that at the last Board meeting, the Board had questions about the bids that were submitted. The Board requested that we include the cost of the removal of the existing oil storage tank. All the engineers have included the removal of the oil tank, the chimney to be either reused or a different method of ventilation be provided and they include a gas fired system. The engineers have modified their prices and Tietjen is still the low bidder.

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Capicotti, with all in favor. Trustee Murray asked if the Village Engineer has worked with this company before. Village Engineer Pommer replied that he has not, but has called the reference and they are satisfied with their work. Assistant Building Inspector Peter Cook spoke and stated that when he was employed by Irvington, Tietjen was the company Irvington hired to do their boiler system and it was top notch.

- g. Consider a Motion to Hire Berkshire Hathaway Home Services River Towns Real Estate (Joe Lippolis).

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Murray, with all in favor. Trustee Murray stated that many years ago we tried to sell this property. We now have a steep slopes law in effect which will make this property a little more challenging to develop, but we should try to get this property back on the tax roll.

- h. Consider a Motion Authorizing the Use of the Pavilion and Serving of Alcohol on August 28, 2022.

A motion to approve this as presented was made by Mayor Knickerbocker, seconded by Trustee Capicotti, with all in favor.

5. INFORMATION FROM OFFICERS & DEPARTMENTS:

- a. Justice Reports – June 2022
Received and filed.
- b. Police Report – June 2022
Received and filed.
- c. Highway Report – June 2022

Received and filed.

- d. Wastewater Treatment Plant – June 2022

Received and filed.

- e. Building Department – June 2022

Received and filed.

- f. Buchanan Engine Company – June 2022

Received and filed.

- g. Attorney's Report

Village Attorney Porteus is ill tonight.

- h. Administrator's Report

Village Administrator Serrano stated that the Route 9A sidewalk is finally done. The pavilion work is also complete. Village Administrator Serrano thanked the DPW guys for their outstanding work. They have been running around the Village doing what ever needs to be done to make the Village look as nice as it can.

- i. Trustee's Report

Trustee Murray asked why there wasn't a prosecutor's report this month. Village Administrator Serrano stated that it just came in today. Trustee Murray suggested that we start comparing the reports because it doesn't appear there is much adjudication going through the courts. He asked if there is a way we can move some of these issues forward. There are a couple of issues that have been long standing in front of the courts in a different jurisdiction and there doesn't seem to be movement. Trustee Murray stated Jupiter Power will be at the next workshop meeting to give a presentation of what they are looking to do on the gypsum plants property. They are a battery storage facility and put together a plan for 250 megawatts of battery power. This is not permitted by our code and would require a zoning change.

Mayor Knickerbocker said that there are two board members who are not available on August 23rd for the workshop. A discussion followed and the workshop meeting is changed to August 30th.

Trustee Murray said there was a discussion last month about the rezoning of the M2 district. There was a question as to whether the original proposal was for the Indian Point property or the entire 365 acres. The original proposal from Hardesty and Hanover was for the Indian Point property. The proposal from Planning & Development Advisors is for the entire 365 acres. Therefore, any zoning changes that occur in that area are not only for the Indian Point property and Lents Cove, but also for the gypsum plant, the Con Edison property, the switch yard and the adjacent property next to the pipeline. Trustee Murray stated that there is a lot of things being discussed, not just the Indian Point property. Those talks are ongoing and as he stated at the last workshop meeting he is opposed to the draft as the way it was written because it limits the amount of industry and manufacturing we are allowed to have, as well as limits the ability of our current manufacture from expanding. Trustee Murray stated that there had been discussion about language to allow non-permitted uses the ability to obtain special permit. He asked if anyone has authorized Mr. Smith or the attorney to write up draft legislation so we can use our table of bulk regulations easier. Mayor Knickerbocker replied that this needs further discussion. Trustee Murray explained that the zoning code refers you to the table of bulk regulations. Permitted usage are in individual zones. You are allowed certain uses in individual zones. The table specifically states that anything not specifically permitted in this table is prohibited. There have been several instances where the developer wants to come in to do something and it is prohibited in our code. Mr. Smith had provided in his scope of work, that for uses that are not listed the applicant could apply for a special use permit. We wouldn't be by-passing any regulations, we would just be offering the ability of a developer to come to us and we could issue them a special permit without changing the entire table. The Board will look at this and there will be a discussion at the August 30th workshop meeting. Trustee Murray asked if anyone is moving forward on the lot coverage issue. Village Planner David Smith had sent a proposal. This will be on the agenda for August 30. Trustee Murray asked if the fire department was included in our Employee Assistance Program. Village Administrator Serrano replied that we will get the information to Chief Roush.

Trustee Laker stated that the Village and Town have been working together on the IMA agreement regarding the sewage treatment plant. Our village attorney, administrator and engineer have spent countless hours researching, drafting and refining the agreement and it appears that the Town is not interested in working with us or coming to an agreement. Trustee Laker would like to find a way to resolve this and move forward. There are benefits to the Village, but at the same time there is a downside as well. He appreciates the efforts of Stephanie, George, Marcus and Theresa in trying to push this along. It is unfortunate if it doesn't go through.

Trustee Stewart stated that he shares the same thoughts as Trustee Laker. We have made concessions in trying to make this work and the ball has been in their court for over 9 weeks and we keep hearing that they signed the agreement, but we don't have a signed agreement. As it looks now, it may not go through. Trustee Stewart thanked everyone for their efforts.

Trustee Capicotti agrees with Trustee Lake and Stewart and that it is a great benefit for both communities to do this project. Trustee Capicotti said that from day one doing business with the Town has been difficult, so doing business now with the Town will not be any easier. Trustee Capicotti hopes that it gets approved so we can move on this, but the Village will be fine without it. Trustee Capicotti is interested in following up on the lot coverage issue. He stated that he heard from numerous people and feels it can be looked at and restructured so that it benefits the people in this community. Trustee Capicotti thanked everyone that came to the Mt. Carmel 100th Anniversary Festival and supported them. He thanked the many volunteers that came to work. It was a great success.

j. Mayor's Report

Mayor Knickerbocker stated that we have been working for quite a while in trying to get the IMA together. Mayor Knickerbocker read a statement to clarify some misinformation regarding the IMA between the Town and the Village of Buchanan. Entergy agreed to provide \$15,000,000 for community and environmental funds. These funds were provided by Entergy and not the state or tax payers money. Buchanan is the most impacted community by the closure of Indian Point. Under the negotiation and the Governor's press release, we were under the impression that we would be receiving funds to make the necessary upgrades to our plant. The Village of Buchanan sewer plant is our largest asset and the key to our future economic growth. Once Entergy left the state, the state became in control of the money.

The Governor's letter stated that the preliminary award will be used in the following sequence for either local match or total project cost until the award is exhausted. 1) Facilitate an immediate disbursement of up to \$500,000 for the municipalities to procure legal and technical assistance to establish an IMA. 2) Reconstruction project for the Village of Buchanan Wastewater Plant. 3) Montrose sewer district infrastructure. 4) Tank expansion of the Village Wastewater Plant to accommodate Montrose sewer district and other potential interconnections. 5) Albany Post Road pump station to address concerns of future flooding.

Mayor Knickerbocker stated that this was the direction from the Governor to the communities to try to get this done. We were working together, as two

communities to try to get this done. The Village Attorney and Engineer spent countless hours putting together a fair and comprehensive intermunicipal agreement that the Town has had for almost three months. The attorneys, engineers, the Supervisor and myself met to address all issues and were told everything was OK. The Supervisor had told us that he was going to give the Village the whole \$7,000,000. The Town has no authority of how the Entergy money gets distributed. The Town is not and has not been in control of this money, and for them to say they would give it all to the Village is preposterous. Obviously, the Town is not interested in signing an IMA, so the Village needs to move forward with a plan B for our Sewage Treatment Plant. The Village has negotiated in good faith the whole time. It would have been a project that would have benefited both communities. It is also unfortunate because the Town and Village have always been good neighbors and have been able to work together. This does not mean at all, that the Village of Buchanan will walk away from \$7,000,000 of the Entergy money. We will definitely continue to fight for our share.

Mayor Knickerbocker gave kudos to Tom Zambito of the Journal News. Since the closure announcement he has followed everything that has gone on with the closure of the plant.

Mayor Knickerbocker announced that the Village received a Certificate of Achievement from PERMA for timely claims filing.

6. **COMMENTS FROM THE FLOOR:**

Diane Tangen mentioned that she was pleased to hear about the high-end apartments that AMS has proposed building on Albany Post Road. She asked what was going on with the property across from the Church. Mayor Knickerbocker responded that they are working on their plans and should be coming to the Village soon with their proposal. Diane Tangen spoke in favor of the new CHHOP location. She said that she definitely feels there needs to be a crosswalk by the Dunkin Donuts. She asked about the Welcome to the Buchanan signs. Village Administrator Serrano said that he talked to the DOT and they stated that they do not put crosswalk in to benefit a commercial use. They turned us down. They did say that if the Village put a continuous sidewalk in to the school, they would consider it. Trustee Murray mentioned that when the property across from Church is developed, the Village could require them to put in a sidewalk.

7. **EXECUTIVE SESSION:** None

8. **ADJOURNMENT:**

At 8:20 P.M. a Motion to adjourn this meeting was made by Mayor Knickerbocker, seconded by Trustee Murray with all in favor.