

Village of Buchanan
 Mayor & Board of Trustees
 Special Meeting
 February 11, 2010

PRESENT:

Mayor Alfred Donahue
 Trustees Theresa Knickerbocker, Sean Murray, Gail F. Richard and Brian Smith
 Village Attorney Stephanie V. Porteus
 Village Administrator Kevin Hay
 Village Secretary Susan F. Matthews

1. **PLEDGE OF ALLEGIANCE:**

Mayor Donahue opened the meeting at 7:00 PM, welcomed everyone and informed them of the fire regulations. Trustee Smith led the Pledge of Allegiance.

Mayor Donahue advised that tonight's meeting is a Special meeting to discuss and act on Resolutions (Mayor Donahue read the Resolutions).

2. **COMMENTS FROM THE FLOOR: (agenda items only):**

None.

3. **NEW BUSINESS:**

a) **10-14 Resolution accepting proposal for a back-up licensed operator at the Village Sewage Treatment Facility.**

Mayor Donahue read the Resolution (copy attached).

Trustee Murray wanted to know which level of pay we are going to have. He wanted to know if we are going to have a chief operator or supervisory operator; how many hours per day will they be here; and will they be here seven days a week or as the resolution alludes to, sewage treatment plant at all times.

Village Attorney Porteus wanted to clarify if it was when the licensed operator is not available or out. She advised that it is going to be the \$110 rate for the chief operator for the licenses we are going to need. If you are discussing when Mr. Smith is away, they estimate about four hours a day which is portal to portal. They come in, do the testing and get back out. It will be four hours a day minimally. If there is a problem, it would be longer. Trustee Murray wanted to know if that would be seven days or five days. Village Attorney Porteus advised that they need someone there every day for the entire time Mr. Smith is away. Other times would be if he were sick, unavailable or on vacation. It is a requirement that somebody has to be there at all times.

Trustee Murray wanted to know what type of notice is required, for example if Mr. Smith calls in sick. Would they be able to be there that day. Village Attorney Porteus advised that they said they would be able to be there every day. They do this for other municipalities and have several people available. They did assure us that they would have somebody for us.

Village Attorney Porteus advised that the Village Engineer sent out two other proposals and received no response. One he spoke to said they were not interested. There were not enough hours. The other gave no response at all.

Trustee Knickerbocker commented that the week Mr. Smith is away starts on a Saturday. It is nine days. We are looking at \$440 a day. We are looking for one week's time, roughly \$3,000. She commented that she is going to vote for this because we need this because we

are in a situation with the Westchester County Health Department. The Board and Village need to look to the future as to how we are going to resolve this. This is only a temporary fix. She wanted to know has there been any checking into any other operators or any of our employees possibly being trained.

Village Administrator Hay advised that he has been talking to the union. They are going to put out a bid to the people in the union to see who is interested, with the stipulation that they get their license. To get the first license, the 1A, they have to have six months of time at the Sewage Treatment Plant. Eventually down the road, they do not want this to be an overnight fix. Eventually George Smith will be retiring and we will want someone to fill that spot as well. The feeling Village Administrator Hay has gotten is that there are several people in the department who might be interested in this position and that is how they would like to fix the problem. The first license level is 1A. Then eventually, they will need a 2A, which is what Mr. Smith is now. Trustee Knickerbocker wanted to know how long it would take to get that because she knows that Mr. Smith is retiring in the next two to three years. Village Administrator Hay advised that it was at least 4 years based on what Mr. Smith said. They would need a year of experience and then have to take the certifying examinations as well. Trustee Knickerbocker noted that this is something they really have to start working on.

Trustee Murray wanted to know what budget line this is coming out of and whether we have money in a budget line for this. Village Administrator Hay advised that we still have money in the Sewer Treatment Plant line. He believes there is another line, as well as a maintenance line, that we have money in. He has been looking through the budget lines to start the budget process and there is money in the budget line for this.

Mayor Donahue advised that he spoke to George Smith who is our plant operator. He advised that he had no choice. He had to go next week to his family in Florida. It is an emergency situation. He had to be down there.

Trustee Knickerbocker commented that in fairness to Mr. Smith, he has been working. The other employee, Timmy, is out on disability. In fairness to Mr. Smith, he really needs to have a day off also.

Village Attorney Porteus commented that concerning the Westchester County Board of Health hearings that they have been attending, because of the way she worded the Resolution this will also satisfy them. Because we have been in discussions with them that they need someone on site at all times. They said they would work with us. They were advised that the Village has been meeting with the union to try to get someone there to move on in and in six months take one test.

Mayor Donahue commented that he was at one hearing down at the County Department of Health. They are cooperating with us. We want to do the right thing on our end.

Trustee Murray wanted to know how long the contract is good for since there is no closing dates on it. He wanted to know if there is a retainer required if we do not use them, or a minimum monthly payment, or just an on-call basis for no extra charge. Village Administrator Hay advised that it is just on an on-call basis. He was willing to take the job. Two other places we sent out information to were not interested because of the hours. They were interested, so the Village got lucky with that one.

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

b) **10-15 Resolution authorizing the Mayor to sign Employment Agreement with the Village Administrator.**

Mayor Donahue read the Resolution (copy attached).

Trustee Murray commented that he was glad that Mr. Hay has decided to stay here for a couple of years. This past couple of months has been a trial period and he has not been scared away yet. Trustee Murray is glad he will stay for a few more years.

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

c) **10-16 Resolution AUTHORIZING the Mayor to execute an Order on Consent with the Department of Environmental Conservation.**

Mayor Donahue read the Resolution (copy attached).

Trustee Richard wanted to know if this is the law suit that was for \$40,000. Village Attorney Porteus advised that this is different. She and Village Administrator Hay were just made aware of this. It is a letter from the DEC informing us that the Village failed to respond to violations received by somebody on or about August 20. The DEC has requirements for storm sewer reporting. They are fairly extensive reports of about 20 pages long. They require all kinds of information on what the Village is doing to educate our public about pollution and storm sewers, how we advertise and what kind of meetings we hold. She commented that nobody received the notice of violation, so they could not get the report done. Now what the Village got instead was a letter saying that since we ignored that, there would be a \$3,000 fine. She looked it up and the penalties can be \$10,000. Village Attorney Porteus called the attorney. He called back but they are playing phone tag. She is still hopeful that with the explanation that the Village Administrator perhaps got the notice of violation but it was not passed along, and in the confusion, we got it done now and can the Village get it to them now and perhaps they will waive the fine. The problem is that since the Board is having a Special meeting, it has to be received in their hands, if the Board is going to approve the \$3,000 and the order, on February 22. Barring Village Attorney Porteus being able to convince them to take the report and waive the fines, she would need authority to pay the fine if they say no and that it has to be paid.

Trustee Richard wanted to know if the forms were done now. Village Attorney Porteus advised that they were substantially done. The engineers have been working on it for the past couple of days. Village Administrator Hay offered what he could in terms of information. Also, on the web site is some information that should be given to the public. There were very specific requirements. The year before, the Village did file one when we had different engineers. It slipped through the cracks and she did not know how it did. We had a meeting with the engineers. They did not have any idea about it. Perhaps it was not delegated to anybody. When she talked to the engineers, they advised that there were portions of this report that they would need to respond to. Mostly it is administrative: what the Board is doing to let the public know about the importance of storm sewers, not polluting, erosion control, when there are contractors and what materials they are using and run off. Primarily, it is a Village responsibility. In years past, the Village Administrator had our Village Engineers filling them out. Village Attorney Porteus advised that she did meet with Jeff Tiernan in the Highway Department. He had some receipts for every time the catch basins were emptied but did not have too much more information.

Trustee Murray wanted to know if this was not part of the law enacted about five or six years ago and were not there four or five steps that had milestones that had to be completed. Village Attorney Porteus advised that yes, according to this, last year the law was passed and approved, although they could not tell whether it was filed. Some of these responses from last year helped us this year. What we needed to do this year was become involved in educating the public.

Trustee Murray understood that we did not follow through with the requirements last year. But he wanted to know if there were not more requirements that we have to comply with in this law. He believes there were several steps that the Village had to take for storm water

management. They had certain completion dates. He did not remember all of the dates off the top of his head, but he believed that this might be part of it. He believes in 2007, Step 2 had to be completed, and he believes that in 2010, Step 3 had to be completed. He did not know if this was a part of that. Village Attorney Porteus commented that Trustee Murray could be correct. She passed it to the Village Engineer who is going to contact them to figure out what has or has not been completed and what needs to be completed. Our fine is for not filing the report telling them what the Village had done.

Trustee Murray commented that a lot of people are not familiar with it and we may be running into the same problem. The Board does not have money budgeted for this. He believed that this was an unfunded mandate from New York State for a storm water management.

Village Attorney Porteus advised that they talked with the Village Engineer. The next one is due on June 1, 2010. They are busy figuring out what needs to be done and what needs to be complied with by June 1. The Village Engineer will complete it, complied with and it will be filed on time. Mayor Donahue commented that they also talked to the Highway Foreman because he is very involved with this. Village Attorney Porteus advised that they did.

Village Attorney Porteus advised that what should also be known is that this is an Order On Consent. If this is not approved, the next thing that happens is that there will be a hearing date given and she will attend the hearing. The only problem is the arguments are lacking because it is for filing a report. The Village is not necessary being fined for what it did or did not do. It just that we did not file the report telling them what we did or did not do. There is probably no defense or argument. This is why she is trying to reach the attorney with the hopes that he has some authority to say get it to them right away.

Trustee Murray wanted to know what else we did not do, as it was said that there were things that we did not complete that were required. Village Attorney Porteus advised that she is not sure. There are question marks. Our engineers are trying to figure out what we did or did not do. We do not know whether the advertising was done. She believes he saw it on the old web site when he first came. They are going back to the prior year. Trustee Richard wanted to know if it was on the web site now. Village Administrator Hay advised that he had it put on the web site the other day. It is from the DEC and gives the storm water guidelines and will now be available to people. It can be read from the web site or downloaded and printed at home.

Village Attorney Porteus commented that Trustee Murray's question is what the engineers are trying to figure out now. With the previous Village Administrator gone, we do not know what was or was not done. A lot of it, they know what we did or did not do.

Trustee Murray commented that the annual reports were filed with the State so he feels that they should know what the Village did since we had to tell them. Village Attorney Porteus advised that was from the year before. In the last year from June 2008 to June 2009, they want to know how many times did the Board hold a meeting talking to the public about this. It is difficult for Village Attorney Porteus and the engineers to figure out. Trustee Knickerbocker commented that she remembered a newsletter that was sent out notifying the public about this but she did not know when. Maybe that is how the advertisement was done.

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

d) 10-17 Resolution AUTHORIZING execution of grant application with Westchester County.

Mayor Donahue read the Resolution (copy attached).

Trustee Murray wanted to have explained if the Village is being charged \$29,000 or \$3200.

Village Administrator Hay advised that it is no cost to the Village. The total grant is \$29,000 that the County is going for. They are going to pick up what would have been the Village's 10% match. They are picking up everybody's match. It costs the Village nothing except for a few meetings by himself and then providing any information that we end up putting into it. It is a GIS (Global Information Systems). We are going to work with a couple of other Villages, a town, a city and they are trying to get a school district as well, to help create a useable template for all of us. We have not created a template yet. We could maybe use it to map storm water plans or where our catch basins are; different things like that. Village Administrator Hay will be talking to the department heads to see what areas we can use this kind of information in. There will be a couple of meetings. Westchester County will put their grant together. They will collect information, put it in their system and make it available to us after the grant. That is only if the grant is available through the Department of State.

Trustee Murray wanted to know if this grant goes through and the Village gets access to the GIS, how much it is going to cost, if anything, after the feasibility study. Village Administrator Hay advised that it will not cost the Village anything because Westchester County is going to maintain it through their systems. The Village will just have a link to all the data. We can link it to our web site, or make it available to Jeff Tiernan at the Highway Department garage, or whoever needs the services. We will be able to print out maps or whatever becomes available after the grant.

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

4. **ADJOURNMENT:**

At 7:25 PM a MOTION to adjourn this meeting was made by Trustee Smith, seconded by Trustee Knickerbocker with all in favor.

9. **AUDIT OF BILLS:**

General Fund: _____ Water Fund: _____

Capital Fund: _____ T&A Fund: _____

See Abstract of Audited Claim Vouchers for details.

Kevin Hay