

**Village of Buchanan  
Board Meeting  
August 1, 2011  
7:30 PM**

**PRESENT:**

Mayor Sean Murray  
Trustees Theresa Knickerbocker, Richard Funchion, Jane Hitney and Nicholas Zachary  
Village Administrator Kevin Hay  
Village Attorney Stephanie Porteus  
Village Board Secretary Susan F. Matthews

**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:**

May 17, 2011 Workshop: The minutes were amended by Trustee Funchion on page 2, paragraph 5, line 7: change “are” to “hire” and omit after “everybody”, “getting that”; line 18: insert “not” before “give”; page 3, line 4: add “on” before “what”; and line 6: add a comma after “Board”; page 5, last line: substitute “should be” for “is”; page 6, paragraph 4, end of line 2: omit “a lot of money”. The minutes were amended by Trustee Zachary on page 2, paragraph 5, line 3: change “1st or 2nd of July” to “1st or 2nd week of June”; page 9, paragraph 2, change after “him” to “George Smith”; page 12, paragraph 2, 7 lines down under illegal apartments: insert “not” after “are”. A MOTION to approve these minutes as amended was made by Trustee Funchion, seconded by Trustee Hitney with all in favor.

May 31, 2011 Special Meeting: The minutes were amended by Trustee Funchion on page 7, line 10: add “and” before “the community”; and by Trustee Hitney to take out Trustee Hitney under those present. A MOTION to approve these minutes as amended was made by Trustee Funchion, seconded by Trustee Knickerbocker with Trustees Funchion, Knickerbocker and Zachary in favor, and Mayor Murray and Trustee Hitney abstaining.

June 6, 2011 Regular Village Board Meeting: The minutes were amended by Mayor Murray on the bottom of page 9, item #6a: change “B” to “V” in “VP”. A MOTION to approve these minutes as amended was made by Trustee Zachary, seconded by Trustee Hitney with all in favor.

**3. COMMENTS FROM THE FLOOR: (Agenda items only)**

None

#### **4. OLD BUSINESS:**

##### **a) PUBLIC HEARING: AUTHORIZING A LOCAL LAW AMENDING CHAPTER 181 OF THE CODE OF THE VILLAGE OF BUCHANAN AND ADDING ARTICLE IV ESTABLISHING A TAX ON UTILITY SERVICES BY THE VILLAGE OF BUCHANAN.**

At 7:38 PM, a MOTION to open the Public Hearing was made by Trustee Funchion, seconded by Trustee Zachary with all in favor.

Mayor Murray explained the utility tax which would be 1% on the gross receipts of the utilities. He said that there was a lively discussion last month and that he hoped for another one. This Public Hearing was left open from the last Board meeting because some of the numbers that we were receiving which they were estimating our revenue on did not seem to coincide with the actuals. After speaking to several of our residents, he found that what we were estimating was a little bit lower. The amount of money received by Con Edison that we would be receiving is approximately \$45,000 per year on the gross receipts of 4.5 million that they estimated on what they sold power for and energy for in this area. Mayor Murray wanted to know if there was any other information. Village Administrator Hay advised that Con Ed was not willing to give any more detail on the commercial and that he had nothing more.

Trustee Funchion commented that under the circumstances he could not support the tax since it was not equally given out to everybody in the Village. It seems to him that Con Ed cannot give us the information that we want so that we can adjust it properly. So he cannot support the tax the way it is.

Trustee Knickerbocker feels that it is not a fair tax. People who have electricity and gas or oil heat are not paying the same amount. She is not in favor of this. She does feel that it was good that the Board looked into this. She commented that Trustee Zachary has put a lot of research into this and checked into it but she does not think it is right for our Village.

Trustee Hitney commented that she has been talking to a number of residents. About half were in favor and half were not. She thinks the two factors that seem to be not in favor are that gas and electric cannot be separated. It was explained but it seems strange to her that it cannot be because it is very separate on our bills. She understands that once it gets to the Public Service Commission that is the reason. The concept that it is a tax is the other factor. It might only be a dollar per month for most people, which is minimal, but it is the concept that it is still another tax. She is also worried about our budget next year when we start to have limitations on the percentage of increase that we can have and this is a source of revenue for the Village that has minimal impact on everyone regardless of their bill. She is still on the fence about this. Mayor Murray commented that he understood and appreciated her position.

Trustee Zachary commented that he is the person who brought this up and suggested it to the Board. It seemed like a good idea at the time. Based on our initial estimates, it seemed like a fairly small tax. The total taken in for a year, taken from Con Ed's estimates, would have brought in about \$41,000 per year based on our early projections. It looked like a tax that might ease a little of the tax burden on the residential properties and pick up a bigger proportion on the commercial properties. It is not a big tax. The Village is going to be pinched more and more

with the new 2% tax cap by New York State. It seemed like a good idea. His concern was raised about unequal taxing because of the gas component. He was viewing it as a tax on the electric bill which would have been uniform across the board. He has trouble with taxing what people are paying for their heat. Trustee Zachary apologized that the process may have gone too quickly and they were still getting and trying to get information as they went through the process. He thinks it is a Motion best put off to a more suitable time in the future. It probably would create unnecessary resentment more for a very small amount of money.

Mayor Murray commented that when they started the discussion about this when they started the discussion about this back in the winter, some of the Board members went to the Municipal Officials meeting where different ways that money could be raised to fund the budget outside of raising taxes were discussed. Next year, we will be impacted because we can only raise property taxes 2%. We have a lot of liabilities with a small tax base. The Board was looking for different ways to raise revenue. The early estimates were that \$18,000 would have come from the taxpayers and the balance would have come from the large utility users. Once we got more information from the residents, it did not prove to be true. The Mayor commented that Con Ed has not been that forthcoming. They had some confidentiality rules where they cannot divulge what some rate payers pay. It was difficult to get information. It is now unanimous among the Board that this tax will not go through. The Board can revisit this in the future. It is allowable under State law. Therefore Mayor Murray recommended closing this Public Hearing following any comments from the public.

The Mayor asked for comments from the public. There were none.

At 7:35 PM a MOTION to close the Public Hearing was made by Trustee Funchion, seconded by Trustee Knickerbocker with all in favor.

**b) RESOLUTION AUTHORIZING A LOCAL LAW AMENDING CHAPTER 181 OF THE CODE OF THE VILLAGE OF BUCHANAN AND ADDING ARTICLE IV ESTABLISHING A TAX ON UTILITY SERVICES BY THE VILLAGE OF BUCHANAN.**

Mayor Murray advised that this Resolution could not be voted on as this law is no longer being proposed by the Board at this time.

Trustee Hitney spoke in favor of revisiting this in the not too distant future. Mayor Murray noted that it could be taken up at any time.

**5. NEW BUSINESS:**

**a) 11-42 RESOLUTION AWARDED BID FOR ROAD IMPROVEMENTS ON HENRY STREET AND SECOND STREET.**

Mayor Murray read the Resolution (copy attached).

Trustee Zachary asked about the last page of the contract noting that the amount of the security deposit is not specified. He wanted to know if that is an agreed upon figure. Village

Administrator Hay will find out. Village Attorney Porteus advised that our Village Engineer will get involved with that aspect.

Mayor Murray commented that for this road project, a bond was passed back in 2010 for \$950,000 for road improvement. To date, \$430,000 has been spent for Bleakley Avenue. We are going to spend another \$65,000 on a Change Order to repair curbing on Valerie Court and Donahue Court. We offered approximately \$250,000 for these two roads. They were bid out last year. For some reason, the contractor did not want to fulfill their obligation to the Village and we were not going to force them to do it if they do not want to do it. The Board decided to rebid it the same as they did it last year. The specs are the same. Last year, it was approximately \$186,000 for Henry Street and Second Street. We have increased the amount of road work to include the lower part of Second Street. The Mayor feels that with only a \$6,000 increase, this is an extremely fair price considering that crude oil is a major component of asphalt and oil prices have risen substantially since this was previously bid. He is glad it came in as low as it did.

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

**b) 11-43 RESOLUTION AWARDED SLUDGE REMOVAL CONTRACT FOR THE VILLAGE OF BUCHANAN SEWER TREATMENT PLANT.**

Mayor Murray read the Resolution (copy attached).

Mayor Murray advised that every year we have to bid out having the sludge removed. It is approximately 2.2 million gallons. This year's price was lower than last year's contract price. The Mayor appreciates that the contractors in our area are trying to work with us knowing how important it is for the Village to save money.

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

**c) 11-44 RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERMUNICIPAL AGREEMENT WITH WESTCHESTER COUNTY FOR COUNTY BUS SHELTERS.**

Mayor Murray read the Resolution (copy attached).

On a question by Trustee Knickerbocker, Mayor Murray advised that we have one bus shelter.

Trustee Zachary commented on page 4 of the agreement where the municipalities have the opportunity to request additional bus shelters. He wanted to know if other than the one that is listed for our Village, is there any advantage to our doing this and would it mean we will be doing the maintenance. Mayor Murray advised that this agreement indemnifies the Village from any burden with the bus shelter. The County takes care of everything. We have to have this

agreement because it is on our land. This allows the County to use it. Trustee Zachary commented that in the future, the Board could look to see if there are any suitable locations for other shelters where they would not disturb anybody's homes.

Trustee Knickerbocker noted that every year the Village receives \$800 from the County for that shelter.

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

**d) 11-45 RESOLUTION SETTING A PUBLIC HEARING ON A PROPOSED LOCAL LAW AMENDING CHAPTER 195 OF THE CODE OF THE VILLAGE OF BUCHANAN**

Mayor Murray read the Resolution (copy attached).

Trustee Funchion noted that they were proposing a Public Hearing on September 5 which is Labor Day. Mayor Murray directed the date be changed to Tuesday, September 6, the date of the next Village Board meeting.

Trustee Knickerbocker noted that the amount of the charge was left blank. The Board discussed this. Village Attorney Porteus advised that the Code specifies \$2.00. Surrounding local municipalities charge around \$75. It has been left blank here so that the Board could determine the amount. Mayor Murray directed to make it \$50. He advised that it is a one-time waiver of charges for an over usage that people are not aware they have incurred. He gave as an example, an older resident who had a toilet stuck open and incurred an exorbitant bill. This is a one-time only waiver. He commented that a lot of times people do not realize that they are using a lot of water until somebody reads the meter. When people in our Water Department notice the change, they notify the resident. Sometimes it is something like an undetected household problem like a running toilet which the resident was unaware of but which results in using a large amount of water. This waiver is being done in order to limit the impact on our residents and to bring the Village in line with what is done in neighboring municipalities.

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

**e) 11-46 RESOLUTION AUTHORIZING USE OF FACILITY FOR THE RECYCLED PAWS RESCUE, INC.**

Mayor Murray read the Resolution (copy attached).

Trustee Zachary noted that the people using the facility should be responsible for cleaning up after the pets.

Mayor Murray advised that the Village has a history of helping non-profit organizations. That is why it is before the Board to waive the usual fee.

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

**f) 11-47 RESOLUTION AUTHORIZING USE OF FACILITY FOR A FAMILY REUNION**

Mayor Murray read the Resolution (copy attached).

Trustee Hitney noted the time being given here was from 9:00 AM to 10:00 PM. It is usually no later than 9:00 PM because the pavilion is in a residential neighborhood. Mayor Murray directed to notify the applicant that the facility will be available until 9:00 PM.

Trustee Knickerbocker noted that the address listed for the event on their insurance policy is the address for the Village Hall. It should be the pavilion address, 218 Westchester Avenue. The Mayor directed the Village Administrator to notify the applicant.

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

**g) 11-48 RESOLUTION AUTHORIZING THE EMPLOYMENT OF RECREATION PERSONNEL**

Mayor Murray read the Resolution (copy attached).

Trustee Funchion wanted to know if some lifeguards had quit. Village Administrator Hay advised that they had to go back to college. We need to replace them.

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

**h) 11-49 RESOLUTION AUTHORIZING THE RELEASE OF RETAINAGE FOR WESTCHESTER AVENUE SIDEWALK IMPROVEMENT PROJECT PHASE II**

Mayor Murray read the Resolution (copy attached).

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

**6. INFORMATION FROM OFFICERS & DEPARTMENTS:**

a) Justice Court Reports – June 2011

Received

b) Zoning Board Minutes – June 2011

Received

c) Planning Board Minutes – June 2011

Received

d) Attorney's Report

Village Attorney Porteus reported that as she had advised the Board at the Workshop, AAA Carting has an application before the Planning Board to use the former BASF property, which they have purchased, to store 25 trucks and dumpsters, using the building for storage and as a repair shop for some of the trucks. They came before the Planning Board and presented an argument that they had an "as of right use" for that business. The Planning Board has referred it to the Zoning Board for an interpretation on whether using it for a garbage truck depot was an "as of right use". The Zoning Board will be scheduling a Public Hearing. When they have made their determination, it will go back before the Planning Board.

The Village Attorney advised that the Planning Board may be asking the Village Board for an extension of time for the advisory opinion on Greentown Recycling.

Village Attorney Porteus advised that all the local laws have been filed with the State. There was some back and forth because some were late. The Code will be current and updated and on-line.

e) Trustee's Reports

**Trustee Funchion** had nothing to report at this time.

**Trustee Zachary** reported that the planning for Buchanan Day is going full strength. The Fire Department will be manning a grille. Two Brothers Restaurant are going to be there selling food. There will be "jumpy castles" and a sliding board. They are booking various types of entertainment. They are going to have a raptor expert who will do demonstrations with golden eagles and hawks. There will be a magician, face painting and music with a DJ. The planning is coming along fine. There will be a helicopter but, he joked, not at the same time as the hawks are flying!

Trustee Zachary reported that Taste Restaurant on Tate Avenue has finally opened. He ate there the other night. He commented that it is beautifully done inside and the food was delicious. It is a top quality restaurant and he encourages people to support this new local business.

**Trustee Hitney** reported on an item in the latest newsletter our residents received from County Legislator John Testa, concerning recycling. The County is now taking #3 through #7 plastics. We have been recycling only #1 and #2 plastics and she wanted to know if this news about their now taking #3 through #7 would also pertain to the Village. Village Administrator Hay advised that he has not received any official notification. He will check with the County and if it is so, will put the information on the Buchanan Channel screen and in the Newsletter. Trustee Hitney

believes that it would take a while to implement it. But it would now include for recycling all kinds of plastics that we traditionally have thrown away, which she feels is a good thing.

Trustee Hitney reported on Taste Restaurant. She went there and it was very nice. She wishes them good luck. She commented on the poor lighting in the municipal parking lot immediately across the street. It was on the dark side. Trustee Hitney noted that she had not received any specific complaint but this was apparent to her. She would like to have the Board look into some kind of street light or enhanced lighting for that parking lot. Trustee Zachary wanted to know if there are street lights nearby that might possibly be obstructed by over-grown trees. Trustee Hitney advised that there is great lighting in front of the restaurant but the municipal parking lot is very dark. Mayor Murray will have the Highway Foreman look into it.

Trustee Hitney reported that camp is almost over. It has been a great summer. The staff worked hard to give the kids a fun and safe summer. She reported on a safety related incident. Trustee Hitney was dropping off her grandson. There was a van which the driver left unattended with the engine running. After 10 minutes, Trustee Hitney became concerned and took it upon herself to say something to the person because she felt it was unsafe. She later checked with our Police Department and found out that it is not only unsafe but also illegal. It is an offense for which you can receive a ticket. She reminded residents to turn their engines off when it is an unattended vehicle, especially in a parking lot where there will be children such as at the pool. It will make it safe for everyone around you.

**Trustee Knickerbocker** reported on an unpleasant incident. A couple of weeks ago a skunk got hit in front of her house. It was on a weekend. She did not want to just leave it lying in the street. Her neighbor bagged it up and she threw it her garbage. She subsequently put it out for pick up on her normal garbage collection day. She learned that you are not supposed to do that. She wanted residents to know that no carcasses are allowed in the household garbage. You need to contact the Highway Department to have them pick it up for disposal. She also learned that when skunk carcasses end up in the back of the garbage truck, they explode and the stench gets all over the Village.

Trustee Knickerbocker thanked Don Zern who weeded around the Circle and the Village clock. The Board really appreciates what he does for the Village.

#### **f) Mayor's Report**

Mayor Murray thanked Village employee Jerry Andrews. A month or so ago, he was doing some work in the area when a resident told him about a big pothole in front of the resident's house. It was a hazard and someone had a bike accident there because of it. Jerry Andrews did not need any extra supervision. He took the initiative, went there, filled in the pothole and made it safe without any extra direction. The Mayor commended and thanked him. He thanked all our employees, noting that they do not always get recognition for doing things like that.

The Mayor requested that whenever a resident sees something like that, they should let the Village know. The elected officials cannot be every place all the time. Bring it to their attention. The Board meetings and Workshops are forums where this can be done. It helps the Board out.

#### **7. COMMENTS FROM THE FLOOR:**

Bob Ingenito, Westchester Avenue, commented on the bus shelter. He wanted to know who is responsible for keeping the bus shelter clear of snow after the plows have come through and piled it up. Village Administrator Hay advised that in the IMA, the County contracts with Clear Channel to maintain the shelter. So he believes it is their responsibility. He will check that out. Mr. Ingenito commented that last winter, people were stepping out of the shelter into the street to be picked up by the bus and it was a hazard.

Eileen Absenger, 138 Tate Avenue, wanted to know if in the Workshop, the Board would be commenting on the how the 2% cap on property tax increases and now, not adding the utility tax may impact our residents when it comes to next year's budget. Mayor Murray advised that the \$45,000 that would have been generated would have been approximately a 2.5% tax increase. A 1% tax increase is approximately \$15,000-\$16,000. The Board has not started putting together the budget. He has questions concerning the 1% tax cap. In the first draft, bond repayment was exempt. There was subsequent information that said that only bond repayment for school districts is exempt. There is a question of how we are going to raise revenue. Last year, we had already factored in the repayment of the road bond of \$73,000 per year which included principal and interest. Since we had not expended the \$1.5 million bond that came from the sewage treatment plant, as of last year we could not budget for it. So it is going to be very important that we find out this exemption information from the State so we know how we are going to pay for it. There will be a serious impact if that bond is not exempt from the tax cap. The Board will be going through the same budget process. A Public Hearing will be set and we can keep it open as long as we want. It could be two or three months, if needed. If we do have to enact that utility tax law in order to pay back some of the money we have borrowed, hopefully we will have more information from Con Ed to determine where this money would come from and who is exempted. At first we were told that people were not exempt from it. Then we were told that various people would be exempt. Ms. Absenger agreed with the Board that it was not a good time to do that 1% tax.

#### **8. ADJOURNMENT:**

At 8:22 PM a MOTION to adjourn this meeting was made by Trustee Hitney, seconded by Trustee Funchion with all in favor.