

**Village of Buchanan
Mayor & Board of Trustees
Village Board Meeting
September 4, 2012**

PRESENT:

Mayor Sean Murray

Trustees Theresa Knickerbocker, Richard A. Funchion, Nicholas Zachary and Duane Jackson

Village Administrator Kevin Hay

Village Board Secretary Susan F. Matthews

Village Attorney Stephanie V. Porteus

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:

August 6, 2012 Regular Board Meeting: A MOTION to adopt these minutes as presented was made by Trustee Funchion, seconded by Trustee Jackson with all in favor and Trustee Knickerbocker absent (as she was stuck in traffic).

July 17, 2012 Workshop Meeting: Trustee Funchion amended page 12, last paragraph, line 2 to add "of a snow storm" after the second sentence. Trustee Zachary amended page 2, paragraph 1, last line, add "remaining" after "\$230,000". A MOTION to adopt these minutes as amended was made by Trustee Funchion, seconded by Trustee Jackson with all in favor and Trustee Knickerbocker absent (as she was stuck in traffic).

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

None

4. NEW BUSINESS:

- a) **12-39 RESOLUTION SCHEDULING A PUBLIC HEARING ON A PROPOSED LOCAL LAW AMENDING CHAPTER 137 OF THE VILLAGE CODE.**

Mayor Murray read the Resolution (*copy attached*).

Trustee Funchion noted that in situations where the disasters specified in the resolution do not occur, we are asking for a payment of \$25.00 to extend it beyond 30 days. He wanted to know if we would look for that fee in the case of a hurricane or any natural disaster. Mayor Murray

advised that he would not have a problem with having no fee at all because we are basically looking for compliance. This Public Hearing and Local Law are about portable storage units. We have had several complaints throughout the Village about people who have these sea/land trailers or dumpsters that have been in their front yards for 8 months to a year. We have tried to work with the property owners to remedy the situation. For the most part, this has been successful. However in some instances, people have not been receptive to our suggestions. This will be a Public Hearing to discuss the merits of this law and to make any changes. He would not have a problem with amending it now prior to the Public Hearing. In response to a question by Mayor Murray if Village Attorney Porteus had an issue with that, she did not and advised that the intent was to separate it from the \$25.00 and make it free if it is a natural disaster. She will make it clearer in the resolution. If it is an emergency, they can just go to the Building Inspector, Barbara Miller, and let her know. It can be amended and will be added for the Public Hearing. The Mayor said that all of this will be discussed at the Public Hearing next month. We will discuss all the issues contained within this law and the legislative intent we are trying to accomplish. The Local Law was taken from adjacent municipalities and we want to tailor it to the individual needs of our residents. One law does not fit everything. Mayor Murray would like as many people as possible come out to the Public Hearing to discuss this with the Board.

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

b) 12-40 RESOLUTION SCHEDULING A PUBLIC HEARING ON A PROPOSED LOCAL LAW AMENDING CHAPTER 171 OF THE VILLAGE CODE.

Mayor Murray read the Resolution (*copy attached*).

In response to a question from Trustee Funchion, Mayor Murray advised that we are changing the wording in the Code. This Code talks about the Recreation Fund. As many residents know, we do not have much more land. Several subdivisions were developed years ago and in lieu of having playground facilities, the contractor was required to deposit a certain amount of funds to be used by the Village for recreation. The law read that the money is for the “acquisition and equipping of new park land”. It has been interpreted by some people that we could not use the money unless we purchase new park land. Mayor Murray read the last line of the Code. The legislative intent was taken right out of the New York State law. We could not use that money unless we were going to buy playground land, but there is no land to buy. The intent of this through New York State law was to allow us to expand our facilities because of the increased uses. So the only thing that is being changed is the wording on the acquisition of the land. The Mayor asked if his interpretation was correct. Village Attorney Porteus advised that it was. She advised that it would help if they read the entire current Code which she will give to them next time. What they have in front of them is only the section that is going to be amended. The Mayor noted that this section of the Code was under the subdivision of land.

Trustee Zachary feels that if you interpret this, it is wide open. It says “use exclusively for park, playground and other recreational purposes.” He feels this gives you carte blanche to do anything related to recreation but that it has been narrowly interpreted. It is his hope to clarify this and to begin a conversation to get a sense of how to use this money to best benefit the residents of the Village. The Board is not looking to squander away the money. We are looking to find improvements that will benefit the greatest number of people in the Village.

Mayor Murray commented that these will be discussed at the Public Hearing and that it would be great if a lot of the members of the public would come out and discuss these proposed changes. This resolution is just to set the Public Hearing. If there are a lot of changes, we can keep it open for another month until the final Code amendment is made.

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

Trustee Knickerbocker arrived. She was not present for the beginning of the meeting due to unexpected traffic delays.

c) 12-41 RESOLUTION AUTHORIZING THE BUCHANAN JUSTICE COURT TO APPLY FOR THE JUSTICE COURT ASSISTANCE PROGRAM (JACAP) GRANT FOR THE NYS UNIFIED COURT SYSTEM

Mayor Murray read the Resolution (*copy attached*).

Trustee Jackson wanted to know if there is a cost associated with applying for this. Mayor Murray advised that there is not. The Court Clerk is the one who is going to submit the request. The Board has to authorize the Court Clerk to submit it. Several years ago, the New York State Unified Court System came down and suggested some improvements to be made to the court. We did not have a lot of funding to make that happen. The Mayor was not previously aware that this money was available. Last month, we hired a new Court Clerk. She was familiar with this and had applied for it in the past. She is trying to bring some of those improvements to us. It is straight forward money and is not a matching grant.

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

d) 12-42 RESOLUTION ACCEPTING THE SLUDGE REMOVAL BID.

Mayor Murray read the Resolution (*copy attached*).

In response to a question from Trustee Funchion about the pricing and where we get the totals, Mayor Murray advised that it came from previous years' bids of 2.2 million gallons of sludge removal. Last year, we used that in just over ten months. This year, we sent the bid for 2.9 million gallons. Trustee Funchion wanted to know if the price changes if we go over that. The

Mayor advised that we enter into a new contract. It is what we did last year. Our contracts are for one year or until its expiration. Last year, we only lasted ten months. Trustee Zachary wanted to know if we are producing more sludge and was 2.2 million gallons accurate back then but now we are producing more. Village Administrator Hay commented that it seems that the biological demand is coming in at a higher level so we are wasting off more sludge. Because we are wasting off more and because of the quality of the sludge coming in, we have to have more taken out. It was only ten and a half months last time and that is why we increased the amount. Trustee Zachary wanted to know if it turns out that they pump less than that amount in the year, would it be based on the unit price. The Mayor advised that it is based on gallons. This price is a “not to be exceeded” price.

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

e) RESOLUTION GRANTING A VENDOR’S PERMIT

Mayor Murray read the Resolution (*copy attached*). The Mayor noted that this refers to Verizon.

Trustee Jackson wanted to know what the period of the permit is. Village Administrator Hay advised that the Code states it is for one year from the first of the year. The Mayor directed that be included in the Resolution. The Village Administrator advised that it was in the Code.

Mayor Murray wanted to know if there is a permit fee. Village Administrator Hay advised that the fee is \$25.00.

Trustee Jackson commented that this will be straight sales of their product which would involve some kind of construction conduit to bring the service to the home owner. Village Administrator Hay believed they are only selling the FIOS service. This is a private contractor whom Verizon hires. Verizon gives them the leads. These people then call on homes during the hours specified in the letter. The Mayor noted that it would be on Monday to Friday from 2–8 PM and on Saturday from 12–6 PM.

Trustee Zachary asked Village Attorney Porteus, if the Board denies somebody a vendor permit, is there any recourse on their part. Village Attorney Porteus advised that it would depend on why the Board was denying it. She looked to see when the last time was that the Board approved one. There was one in 2002. Mayor Murray noted that Verizon and Cablevision have vended here before, since 2002. Trustee Zachary does not want people coming to his door and selling him things. He believes that if he votes based on that, there are enough people in the Village who would agree with him. His inclination is to deny this permit and to not have people interrupted at the door while they are having dinner. Village Attorney Porteous advised that the Board could amend the hours. Trustee Zachary commented that the hours they want to come to sell are the dinner hours because that is when people are home. Trustee Knickerbocker suggested making it Monday to Friday from 2-8 PM and on Saturday from 12-6 PM. Trustee

Jackson wanted to know if the Board can say that the hours they have requested do not work for us.

Trustee Jackson noted that he has had the FIOS system for about two years. He wanted to know if the Village is totally wired for it or would they be wiring each home owner individually. Mayor Murray advised that we are just talking about allowing them to discuss FIOS. Trustee Jackson commented that when FIOS came in to his neighborhood it involved an easement to bring it in. He wanted to know if this is an extension of what we already have. Trustee Knickerbocker commented that we are currently FIOS active. It is wired differently in the home. All these people are doing are soliciting the Verizon FIOS service. The Mayor advised that according to the letter, it is only sales, not installation or modification of existing equipment.

Trustee Jackson was also in favor of changing the times. Mayor Murray wanted to know what times the Board would like to specify. Trustee Knickerbocker felt the Saturday hours were acceptable and suggested making Monday to Friday from 12:00 to 6:00 PM. Trustee Zachary commented that he was generally opposed to vendors coming to his house. He gives people the cell phone "Do Not Call" list. He did not have the home phone "Do Not Call" list handy. He commented that in the course of the last five years, he has seen hundreds of pieces of mail from FIOS and Cablevision. He is well aware of both. He commented that he did not need somebody to come to tell him something he already knows. He is not in favor of this permit. Trustee Funchion agreed with Trustee Zachary that by now, most people know about Cablevision and FIOS. He thinks that most people do not like people knocking on their door selling things. He wanted to know if this opens the way for other vendors to sell things. Village Attorney Porteus advised that in our Code, there is the ability to request that. Trustee Zachary would not be opposed to a legitimate non-profit soliciting door to door.

Mayor Murray wanted to know how the Board felt about proposing the hours to be from 12:00 to 6:00 PM, returning that to the vendor for their consideration and holding over the Resolution. Trustee Knickerbocker would favor 12:00 to 6:00 PM. Trustee Jackson wanted to shorten it to 1:00 to 5:00 PM to avoid the dinner hour. He commented that the point of this is for Village residents to avail themselves of this service. So the question is whether there are other ways they can get this service without having someone canvass the Village by "cold calling" from door to door. Trustee Zachary commented that some people would be glad someone came to talk about the service but that there are others who like him, do not want to be interrupted at home.

Mayor Murray commented that we would be willing to negotiate with the vendor to change the hours. He noted that no matter what hours we specify, there will be someone who is not happy. Trustee Jackson wanted to know what was done when they came in two years ago. He has the service and thinks it good. He is not arguing that. Trustee Knickerbocker advised that at that time, they went door to door with special offers and discounts and free televisions. Trustee Jackson wanted to know if the Village gave them a prior approval. Trustee Zachary commented that they just have to feed your house from the pole. The Mayor wanted to know if the Trustees

wanted to change the hours and hold it over or vote on it now. Trustee Jackson favored voting now. Trustee Knickerbocker noted that at this time of year, 8:00 PM is dark. She does not like someone coming to her door at that hour. The Mayor directed to change it to 6:00 PM contingent on if the vote passes. Trustee Knickerbocker noted that it would be effective until January 1, so that if we have a problem we could look at it again.

A MOTION to adopt this Resolution as amended was not passed with Mayor Murray and Trustee Knickerbocker in favor and Trustees Funchion, Zachary and Jackson opposed.

f) 12-43 RESOLUTION RETAINING OUTSIDE LEGAL COUNSEL

Mayor Murray read the Resolution (*copy attached*).

Trustee Jackson wanted to know why we cannot pursue this matter using our Village Attorney. Village Attorney Porteus advised that she has a conflict of interest and could not do it. Most of the time, she does take care of this. She advised that she searched hard for somebody who would do it under the contingency fee rather than on an hourly fee basis. Otherwise, once the answer is in and you go to deposition, it could cost the Village more in fees than it is worth. This attorney is willing to do it for a cap of one-third of what we are owed. That is better than an hourly rate. Trustee Zachary wanted to know if we are unsuccessful collecting any money, does the lawyer get the fee. Village Attorney Porteus advised that he would not get a fee if we are unsuccessful. The Mayor advised that if we do not win the law suit, we get our \$2500 retainer back. The Mayor believes that the Village is owed approximately \$14,000. Trustee Jackson wanted to know how Mr. Hamilton was chosen to be the attorney. Village Attorney Porteus advised that he used to be a judge in Ossining. She had appeared before him in the past. She had made calls and everyone wanted an hourly rate of between \$200-\$300 per hour. She was referred to Mr. Hamilton. She noted that his resume includes that he used to prosecute for the City of New York. He was a police officer and an attorney. He advised Village Attorney Porteus that he believes this will not go much further than a summons and a complaint. He did not think it is going to go on for a year but if it did, he has a good resume. He used to be a judge and he came well referred.

Mayor Murray commented that it is always good to cap your legal costs. If we lost, it would not cost us anything. Trustee Jackson wanted to know how the matter got to this point. The Mayor advised that the previous lawsuit that the Village lost last year was \$250 per hour and had languished for about two years. We spent \$15,000 to \$20,000 and lost, and we did not get any money back. If we lose now, we get all the money back and we are capped as to the amount of money to be paid to the attorney. Village Attorney Porteus wanted to know if Trustee Jackson would like her to present a couple of other resumes. Trustee Jackson commented that he is only trying to understand the process. Mayor Murray noted that since this incident occurred, we have enacted more controls over our escrow. A couple of years ago, we enacted an escrow law where a commercial applicant has to pay for their site planning and approval process. We did not have

a good grip on the reporting of the funds and where the applicants were in their funds and how much was actually deposited. This incident brought that to light. We now have reports that go to the Planning Board and no one is allowed to be put on the agenda unless there is sufficient escrow in that account. This was at the beginning of when all this was transpiring, so this one slipped through the cracks. We have now enacted some rules and regulations so that this will not happen again.

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

EXECUTIVE SESSION:

At 8:06 PM a MOTION to enter into Executive Session to discuss hiring of a Laborer for the Highway Department was made by Trustee Funchion, seconded by Trustee Knickerbocker with all in favor.

At 8:32 PM a MOTION to return to the meeting and to exit the Executive Session was made by Trustee Funchion, seconded by Trustee Zachary with all in favor.

g) 12-44 RESOLUTION APPOINTING HIGHWAY PERSONNEL

Mayor Murray read the Resolution (*copy attached*).

This is to reorganize the Highway Department. Rich Zotto (Highway Foreman), Jerry Andrews (MEO Water) and Randy Hesselgrave (Laborer) were appointed to new positions.

Trustee Funchion commented that these appointments were made on the recommendation of the Highway Foreman. He does not personally know the individuals that well but he respects the decisions of the Highway Foreman.

Mayor Murray advised that the Village Administrator sent a letter to the members of the Board (*attached*) which noted the top four candidates in order of preference. He read the letter. This is the same procedure we had the last time we hired someone a few years ago. The Mayor commented that he had wanted to start a point system and give credit to Veterans and volunteers. A couple of months ago when we discussed this, we were advised that to avoid the appearance of impropriety, we could not do this. The Highway Foreman and Village Administrator sat down with the individuals and they gave their recommendations to the Board.

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

5. INFORMATION FROM OFFICERS & DEPARTMENTS:

- a) Justice Court Report – July 2012

Received – no comments

b) Wastewater Treatment Reports – January–May 2012

Received – no comments

c) Attorney's Report

Village Attorney Porteus reported that other than the local laws that she is working on, the same applicants are before the Planning Board and those matters are moving forward. There are two new applications in the Zoning Board. That board has been quiet for several months.

Village Attorney Porteus advised that when she writes the Local Laws and gives them to the Board, if they ever have questions they should email, write her or call her. When they bring up questions for the first time at a Board meeting, it is more difficult. She suggested bringing their questions up at a Workshop or to write to her. She commented that when she is doing them, she has a certain thing in mind but when the Board members see it fresh, they may have some new ideas. The sooner they communicate those ideas to her, she can process them and fine tune the proposals.

d) Trustee's Reports

Trustee Jackson thanked Police Chief Tubbs for the note he put in our Newsletter. It addressed one of Trustee Jackson's concerns which is children riding in our streets without helmets. He commented that we are not going to be out there handing out tickets but it was a reminder that it is the responsibility of our residents and a State law that children have helmets on and reflectors. He noted the way that Chief Tubbs worded it in the Newsletter. If we keep reiterating that, hopefully they will start putting on those helmets and we will not have to start enforcing a law that already is on the books. Trustee Jackson is very concerned, especially around Lake Drive and Tate Avenue where there are people walking and jogging and kids riding bikes. He is hopeful that being forewarned is foretold.

Trustee Funchion wished to continue from Trustee Jackson's report and urged all parents that they speak to the schools to put on a program to show teenagers and younger children what they look like on bikes with no helmet when it is dark and they are riding in the traffic. There are parts of Tate Avenue with dark spots which are very dangerous.

Trustee Funchion reported that he is working with the Buchanan Day Committee and the Saint Patrick's Day Parade Committee. The Saint Patrick's Day Parade Committee is looking for nominations for Grand Marshal and Aides. They will be working on that at the end of this month.

He knows that Trustees Knickerbocker and Zachary are going to talk about Buchanan Day. He looks forward to their reports.

Trustee Zachary wanted to emphasize to the public to come out and be part of the process. We will be holding two Public Hearings next month. One is on portable storage units. It emanated from people in the community expressing their concerns by speaking or writing to the Board. Trustee Zachary noted that we are a small community and you can have an impact if you come to these hearings and express your opinion. He commented that the residents elected the members of the Board who will use their best judgment if the residents do not come to the public hearings; but he encourages everyone to be a part of the process. The other Public Hearing is on what are the best ways for the community to use the Recreation Fund money. If you cannot be at the meeting, you can email, write to or call the Board members. Any way that you can be involved would be great.

Trustee Zachary reported that next Tuesday, September 11 at 3:00 PM, the Buchanan/Cortlandt/Croton 9/11 Remembrance Memorial is being is being commemorated. There has been a lot of progress. The stone and the steel beam from the remnants of the World Trade Tower have been placed. You have to park and walk out along Croton Landing Park. If you want to watch the ceremony, you are welcome.

Trustee Zachary reported on Buchanan Day. It will be on September 29 from 11:00 AM to 6:00 PM. Trustee Zachary encouraged everyone to come out and have fun. Village residents have received three flyers in the mail and it has been talked about at Board meetings. He encouraged everyone to come out and have fun.

Trustee Knickerbocker reported that we have a great committee for Buchanan Day. We have a lot of new things this year. She looks forward to seeing everyone there. She hopes for a sunny day. We are going to have a great day. She thanked Rich Zotto, Mary Ingenito, Trustee Zachary, Kathy Brennan and Colleen Lonergan who, along with Trustee Knickerbocker herself, comprise the committee. They have worked well as a team and have come up with some great new ideas.

Trustee Knickerbocker wanted to know where we were with the paving. Village Administrator Hay advised that George Pommer will meet with the contractor this week. Roads in the Town of Cortlandt are being done first and then here in the third or fourth week of the month. Trustee Knickerbocker noted that we are on track with that.

e) Mayor's Report

Mayor Murray thanked Jeff Tiernan for his many years of service to the Village. He was employed here for over two decades. The Mayor commented that being a Highway Foreman is a difficult position. You have to balance what the public's perception is; what the needs of the Village are; and the resources we give him, both monetary and non-monetary. For somebody to have been employed by the Village in that leadership position for so many years and to have dealt with so many administrations, Mayor Murray commented that he could only guess at the

types of challenges Jeff incurred. The Mayor thanked him for all his years of service to the Village.

Mayor Murray looks forward to our new Highway Foreman, Rich Zotto, doing as good a job. We have some ideas. Rich has some ideas about being Highway Foreman. Hopefully they can work on some long standing issues. His level of knowledge with the Water Department will be a definite asset to the Village in coordinating these issues, whether it is the maintenance on our water main valves or fixing the gutters that may have been damaged because of some leaking water. The Mayor looks forward to working with him.

Mayor Murray reported on the Public Hearing on the containers. At the last Workshop, he had asked the Village Administrator to send a letter to the people who had contacted us in writing. The Village Administrator advised that he did last Friday, familiarizing them so they know what the process will be and advising of the Public Hearing.

Mayor Murray reported that the 9/11 Memorial will be dedicated next week. Hopefully, we will have a good attendance from the Village and the Town residents. The Mayor encouraged all the residents to come out. A lot of people in the Village have participated in the fund raising efforts. It is good to see that the fruits of the volunteers on the committee are coming to fruition. Trustee Zachary added that if you are coming, you can park either at Senasqua Park or Half Moon Bay then walk up along the riverside trail to the memorial.

Mayor Murray hoped to see everybody at Buchanan Day. The committee did a great job last year. There have been many improvements this year. There were many lessons learned from last year. He hoped to see as many or more residents than last year. There will be a lot of booths and activities. He encouraged everyone to come out and have a great afternoon.

6. COMMENTS FROM THE FLOOR:

Former Mayor Alfred J. Donahue, 129 Second Street, read a statement (*copy attached*) which started with “*Bigotry is alive and well in the Village of Buchanan!*” and ended with “*If the Mayor and Village Trustees have their way, St. Christopher’s parishioners will be put on a ‘Pay to Pray’ basis*”. He noted that he was a parishioner of Saint Christopher’s Church.

7. BOARD MEMBER REBUTTALS:

Trustee Zachary believes that when the Board had the discussions about parade permits, the Board was sensitive to the fact that people have individual rights but that as a Board, we have to balance both the complaints of the residents who hear the noise from these frequent parades with the rights of the people holding them. He does not think that the Board was jumping to any conclusions or in any way violating religious rights. They looked at both sides of this issue. The Board did not make a determination on the permits at this point. He thanked Mr. Donahue for his comments.

Mayor Murray advised that over the past couple of months, the Board has been discussing parade permits. Whenever we receive a request from any department head or resident to investigate a situation that is impacting residents, we are going to investigate it. There have been previous administrations who just forget about it and do not take people's comments into consideration when determining what is best for the most residents. Concerning the April 6 incident, he, and to the best of his knowledge the other members of the Board, have no knowledge of it. The Village of Buchanan is going to enforce our Code and any rules we have in place. These regulations are not only for safety but for the residents. Whenever we have requests to investigate something, we are going to do so. We will continue these types of discussions. It is part of open government. Whenever someone comes to us with a concern, we are going to talk about it, in public. It will not be in private, or in hiding or with just a group of people. Everything is going to be in public. The Mayor encouraged people to come to the Workshop meetings where they discuss these issues. We have had several letters back and forth requesting information, between the Village Board and the Police Chief. We received that information. We are going to discuss it again at the next Workshop meeting. This is something we like to do in public. When there is an issue, we take the consideration of our employees seriously. We are not out there every day. Our Police Department is out there every day. If somebody stops them with a concern, they are going to forward it. They will discuss it with their superiors who will discuss it with the Board. Mayor Murray said that is how we are going to continue to run things.

8. ADJOURNMENT:

At 8:52 PM a MOTION to adjourn this meeting was made by Trustee Funchion, seconded by Trustee Zachary with all in favor.