

MEETINGS: 20
NO. OF REGULAR: 19

**VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
December 23, 2019 7:00PM**

ROLL CALL: Trustee Jakubowski – Pr
Trustee Stempniak - Pr
Trustee Hamernik - Pr
Trustee Voll - Pr
Mayor Peterson– Pr

ON A MOTION BY, Trustee Jakubowski, and seconded by Trustee Hamernik the December 9, 2019 Village Board Minutes were approved.

ON A MOTION BY, Trustee Voll, and seconded by Trustee Stempniak, the December 15, 2019 Planning Board Minutes were approved.

1. 786 Terrace Boulevard, Bammel Architects PC on behalf of Terrace Boulevard Associates for proposed expansion of parking lot/staging area for truck deliveries on the North Side of the building. Concept site plans approved with stipulations

PUBLIC COMMENT

Paul Sprada, 58 Argus. His recycling has not been picked up in two weeks. Mayor Peterson explained the process he needs to file with Deb at the DPW. In the sidewalk law he noticed that the maintenance of sidewalks says by 9am. The Mayor explained that we won't be out there at 9:01 checking and to just do the best you can. Some of the laws had to be tweaked due to the fact that some sidewalks are narrower than others and the plow cannot get through them.

Notice of Public Hearing

A public hearing will be held on Monday December 23, 2019 at 7:00PM in the Depew Village Hall Council Chambers The purpose of this hearing is to consider Local Law 5 of 2019 authorizing an amendment to the existing Sidewalk Law Chapter 203 – 2 Sidewalk Maintenance in the General Municipal Law adding the subsection D. The meeting room is wheelchair accessible.

ON A MOTION BY, ON A MOTION BY, Trustee Stempniak and seconded by Trustee Voll to close the public hearing on 7:10PM

ADOPT LOCAL LAW #5 OF 2019 – SIDEWALK MAINTENANCE

Trustee Voll, offered the following resolution and moved for its adoption:

WHEREAS; the Village Administrator held a public hearing on Monday December 23, 2019 at 7:00 pm in the Council Chambers. The purpose of this hearing is to consider Local Law 5 of 2019 authorizing an amendment to the existing Sidewalk Law Chapter 203 – 2 Sidewalk Maintenance in the General Municipal Law adding the subsection D.

If adopted, the proposed local law shall read as follows:

- A. Generally. Every owner or occupant of any premises shall keep the public sidewalk of such premises free and clear from snow, ice, dirt and other obstructions.
- B. Duty to maintain sidewalks and area between sidewalks and street pavement. It shall be the duty of every owner or occupant of premises abutting any public street or grounds to keep the sidewalk and the area between the sidewalk and street adjoining same in good order and repair and no one shall brush, sweep, shovel, or plow any accumulation of refuse or other material into the street, nor allow any accumulation of refuse or other materials to remain thereon.
- C. Snow and ice. It shall be the duty of every owner or occupant of any premises adjoining any public street or alley to remove all snow and ice which may have fallen upon the sidewalk adjoining said premises by 9:00 a.m. In case the snow and ice on the sidewalk shall be frozen so hard that it cannot be removed without

material difficulty or injury to the pavement, the owner, lessee, tenant, occupant or other person having charge of any building or lot of ground as aforesaid shall within the time specified above, cause the sidewalk adjoining the premises to be strewed with ashes, sand, sawdust, salt or some suitable material and shall as soon thereafter as the weather permits thoroughly clean said sidewalks.

D. It shall, in all cases, be the duty of the owner of every lot or piece of land in the Village of Depew to keep the sidewalks adjoining the owner's lot or piece of land in good repair and to remove and clean away all snow and ice and other obstruction from such sidewalks. Failure to do so will result in the costs of any repair done by the Village of Depew to be assessed against the landowner as detailed in 203-3 and 203-12, and, further, said landowner shall be liable in tort for any injuries to any person or property as a result of the landowner's failure to comply with this article.

The foregoing resolution was seconded by Trustee Stempniak and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

APPOINT PT WINTER RECREATION PROGRAM

Pursuant to Section 4-400 of Village Law, I Mayor Kevin Peterson do hereby appoint the following to the winter recreation program:

N	Thompson	David
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Part Time at the Recreation Department at \$12.00 per hour beginning December 26, 2019

The forgoing nomination was acted upon in the following manner by the Board of Trustees:

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

PERMISSION WORKSHOP

Trustee Hamernik, offered the following resolution and moved for its adoption:

BE IT RESOLVED, permission is hereby granted to Police Chief Jerome Miller to attend the VALOR Executive Leadership Workshop on Tuesday January 7, 2020 in Syracuse, NY from 8:00 AM – 12:00 PM. There is no fee for this workshop. Use of a village vehicle is authorized.

The foregoing resolution was seconded by Trustee Stempniak and **CARRIED**.

ACCEPT RESIGNATION – POLICE DISPATCHER

Trustee Stempniak, offered the following resolution and moved for its adoption:

BE IT RESOLVED, the resignation of Police Dispatcher, Timothy G. Stearns effective Friday, February 14th is accepted.

The foregoing resolution was seconded by Trustee Voll and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

PERMISSION

Trustee Jakubowski, offered the following resolution and moved for its adoption:

Adopt SEQR Negative Declaration Re: 5190 Transit Rd, Depew NY 14043

Adopt SEQR Negative Declaration Re: 3230-3236 Walden Ave

Attorney Alba wanted everyone to know that the Village Board relies on the Planning Board for their recommendations on the motions.

The foregoing resolution was seconded by Trustee Hamernik and **CARRIED**.

RESOLUTION IN OPPOSITION TO CRIMINAL JUSTICE REFORM

Trustee Voll, offered the following resolution and moved for its adoption:

WHEREAS, protecting the people from harm by enforcing the rule of law is the foundational role of government. County governments are vested by the State of New York with the responsibility to protect the most vulnerable among us, including the socioeconomically disadvantaged, the disabled, the elderly and children. No group is more vulnerable than the victims of crime, and a just society demands that crime victims should be recognized as key participants within the criminal justice system and be treated with dignity, fairness, and respect;

WHEREAS, for the past twenty-five years the State of New York has committed itself to reducing crime, and has succeeded as evidenced by official U.S. Department of Justice Uniform Crime Reporting Statistics showing that New York transformed from the second most dangerous state in America in the early 1990s to the safest large state in America by the early 2000s; and

WHEREAS, in the final stages of adopting its FY 2020 budget, the State of New York enacted sweeping criminal justice reforms including the elimination of immediate cash bail for many specific enumerated crimes and the imposition of stringent discovery mandates on police and prosecutors; and under bail reform, beginning January 1, 2020, judges will be stripped of their discretion to immediately set bail for many specific enumerated crimes, which means those suspected of committing these crimes may no longer be held in jail after their arrest, regardless of the strength of the case against these defendants, or the length of the potential sentence faced by these defendants, or the extent of the harm allegedly caused by these defendants, and instead these defendants will be released back into the general public; and

WHEREAS, these crimes include those that result in the deaths of innocent people, including several subcategories of homicide and manslaughter, resulting in those responsible for these deaths being released back into the community of grieving families. These crimes include Making a Terroristic Threat and Money Laundering in Support of Terrorism in the Third and Fourth degree, resulting in those alleged to have supported terrorism in this manner, or who have threatened to commit acts of terrorism, being released immediately from police custody; and

WHEREAS, these crimes include Promoting an Obscene Sexual Performance by a Child; Possessing an Obscene Sexual Performance by a Child; Failure to Register as a Sex Offender; and Patronizing a Person for Prostitution in a School Zone, resulting in suspected child predators being released and returning into our community. They also include Aggravated Assault Upon a Person Less than Eleven Years Old; Reckless Assault of a Child by a Daycare Provider; Criminal Sale of a Controlled Substance to a Child; Abandonment of a Child; and Criminal Possession of a Weapon on School Grounds, resulting in those suspected to have physically harmed or endangered children in this manner being free from custody; and

WHEREAS, these crimes include Endangering the Welfare of a Vulnerable Elderly Person or an Incompetent or Physically Disabled Person, resulting in the potential for further endangerment of seniors and these defenseless individuals and Aggravated

Cruelty to Animals, Torturing Animals and Injuring Animals, resulting in the immediate release of those suspected of deliberately injuring, torturing and killing animals; and

WHEREAS, these crimes include Assault in the Third Degree, Aggravated Vehicular Assault, and other crimes of physical violence against people; and also include Burglary of a Residence, resulting in the immediate release of these individuals back into the neighborhoods they are suspected of targeting. Bail Jumping and Unlawfully Fleeing a Police Officer in a Motor Vehicle, resulting in release on recognizance of the very individuals who have demonstrated a propensity to evade the law; and

WHEREAS, some of the offenders mentioned heretofore are at risk of not showing up for court, thereby placing a burden on public employees who, under this law, are required to send multiple court appearance reminders to these offenders, as well as police officers and District Attorneys who must commit resources to tracking and pursuing those who evade prosecution; and

WHEREAS, all offenders who are currently being held in custody for non-qualifying crimes including those mentioned heretofore will be eligible for release from custody on January 1, 2020; and the discovery mandates imposed by the State of New York will require police and District Attorneys, beginning January 1, 2020, to turn over voluminous trial-related materials to defense attorneys within 15 days, creating a mandate that could not be achieved in some cases and may result in the inability of the People to properly prosecute cases against criminal defendants; and

WHEREAS, discovery reform will also result in an opportunity for defendants to gain access to crime scenes that may include a victim's residence, thereby giving defendants accused of burglaries, assaults, rapes and other crimes committed in victims' homes the right to return to those same homes; and the issues mentioned heretofore will undeniably impact past, present and future victims of crime in a negative manner, and in so doing, the bail and discovery reforms adopted by the State of New York could further victimize these innocent individuals; and

WHEREAS, these bail and discovery laws, in their current form, represent a clear and present danger to society, will tilt the scales of justice in favor of suspected criminals and away from innocent crime victims, and risk reversing decades of bipartisan progress made by the State of New York in reducing crime; and the fundamental responsibility of governments to protect the vulnerable in society demands that the shortcomings of these laws be remedied prior to their effective date of January 1, 2020,

BE IT RESOLVED, that the Village of Depew hereby supports legislation (S.6853) introduced by Senator Chris Jacobs and implores the State of New York to immediately amend or otherwise delay implementation of these laws by convening an emergency session of the State Legislature, or by emergency executive authority, or by any other means deemed possible by the State, and to do so before December 31, 2019; and

BE IT FURTHER RESOLVED, that the Village of Depew asks all counties in New York State to urge their state representatives to take immediate action on the foregoing issues, and

BE IT FURTHER RESOLVED, that copies of this resolution be provided to Attorney General Letitia James, Governor Andrew Cuomo, Lieutenant Governor Kathy Hochul, Senator Charles Schumer, Senator Kirsten Gillibrand, Honorable Speaker of the Assembly Carl E. Heastie, Honorable Senate Majority Leader Andrea Stewart-Cousins, Honorable Republican Minority Leader John Flanagan, Honorable Majority Leader of the Assembly Crystal People-Stokes, Honorable Minority Leader of the Assembly Brian Kolb, the Western New York Delegation and Erie County Executive Mark Poloncarz and the Erie County Legislature. The New York State Association of Counties, the New York State Sheriffs' Association, the New York State Association of Chiefs of Police, the District Attorneys Association of New York, the New York State Defenders Association, the New York State Probation Officers Association, the New York Council of Probation Administrators, the Association of Justices of the Supreme Court of the State of New York, the New York State Association of City Court Judges, the County Judges Association of the State of New York, and the County Attorneys' Association of the State of New York, The Association of Towns and NYCOM.

The foregoing resolution was seconded by Trustee Stempniak, and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Voll – Y
Trustee Hamernik - Y
Trustee Stempniak – Abstain
Mayor Peterson - Y

EMPLOYMENT APPLICATIONS – None

DEPARTMENT HEAD REPORTS - Police and Building for November 2019

UNFINISHED AND OTHER BUSINESS

None

PUBLIC CONCERNS AND COMMENTS

Elizabeth from Monica Wallace's office said they are very busy and wanted to wish everyone Happy Holidays.

Matt Walter said this may be his last meeting attending as Town Councilman. He did want to commend the board for their decision to adopt a resolution against the new Bail Reforms. The Town is looking to hire someone specifically to complete these mandates. Happy Holidays, Happy Hanukkah everyone. Mayor Peterson told everyone he was at the last Town meeting to wish the outgoing leaders well and congratulation the incoming new Board members. Matt said he is hopeful that his replacement will come to the board meeting as he has, it sparks good conversation between the Town and Village and feels it is very helpful.

Mayor Peterson also wish John Brusso success and thanked him for all of his support for the Village, especially with Founders Days.

Judy Michaels OEM – Finished 16 hour Course for the State on the Continuity plan that she feels the State will mandate soon.

Mayor Peterson for Chief Nusall – Report of activity and of equipment status.

Chief Miller – Just wanted to wish everyone Happy holidays . Stay safe, remind everyone to lock their cars to avoid being robbed.

Trustee Voll reported on the Rec Department for Kevin Ferguson. 2 additional open skates were schedule, today from 1-3pm and Friday the 27th from 1-3pm also. Learning to skate program is going very well. The skate rental is bringing in approximately \$500 per week, which stays in the Village.

Attorney Alba said that the small cell wireless should be on the first meeting agenda in January. Happy holidays to everyone.

Mayor Peterson reported that the Village has been awarded a \$100,000 grant from the County from the CDBG funding. We've also been awarded \$482,500 in EFC grants which is the most we were eligible for. The total project cost is \$1.92 million dollars. He wants to thank Municipal Solutions, Dave Britton of GHD, Ken Mazurek of the DPW and Administrator Wachowiak. The board is very grateful.

Trustee Voll thanked Matt for coming to our meetings every other week and wished him well. Happy holidays!

Trustee Stempniak wished everyone Happy Holidays and to stay safe. Remember this is a time to reflect on the past year.

Trustee Hamernik reported that she saw someone in the park reading from the new libraries. Over 150 gifts were collected for a family at Main and Gould for Christmas. She is being installed into the Lancaster/Depew Chamber of Commerce, On 1/3 she is being named Saint of Servanthood. Chief Miller and Mayor Peterson congratulated her.

Trustee Jakubowski wished all a Merry Christmas and Happy New Year.

Mayor Peterson How does everyone like the new streetlights? Yes? The object of this project was to save money every year. Requests to change bulbs, adjust lighting after the new lights have been installed will not be granted.

Paul Sprada told the Chief that the UB Center has a distinguished speaker who is an authority on the new madates and if you want I can get you his name. Chief Miller said yes, please do. Paul also asked the board if they would be interested in hearing what Tom Gallisono has to offer as far as cable. Mayor said yes, he's sick of the high bills every month.

Dave Burkhart, 5 Autumn Lea, asked if the Village was working on the viaducts on Transit. The Mayor stated that the Village has very little to do with that. Dave said that it's so narrow on Transit that he is afraid someone is going to hit his side view mirror. If the viaducts were removed they could widen Transit. Mayor Peterson said that no one will probably look at that until the bridge is 100 years old, which won't be until 2033.

CLAIMS AND ACCOUNTS

ON A MOTION BY Trustee Voll and seconded by Trustee Stempniak, the following claims are to be paid: \$179,742.10 General, \$130.00 Community Development, \$800.00 Sewer, \$4,240.80 Capital Projects and \$184,912.80 Capital was **CARRIED**.

ADJOURNMENT

ON A MOTION BY Trustee Jakubowski, seconded by Trustee Hamernik, the meeting was adjourned with a moment of silence for Anna, Grandmother of Asst Chief Todd Rzeszutek, Brian Zari from West End and Mike Musialak, Captain from Hook & Ladder Ron Pratt's wife 7:45 **PM**. The motion was **CARRIED**.

Respectfully submitted,

Teresa Wachowiak
Village Administrator