

MEETINGS: 24
NO. OF REGULAR: 22

**VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
March 11, 2019 7:00PM**

ROLL CALL: Trustee Jakubowski - Absent
Trustee Bukowiecki -Pr
Trustee Hamernik - Pr
Trustee Peterson -Pr
Mayor Nikonowicz – Pr

ON A MOTION BY, Trustee Hamernik, and seconded by Trustee Peterson the February 25, 2019 Village Board Minutes were approved.

AGENDA ITEM COMMENTS

Gabby Miller had questions on agenda items #1 and #2. What created the opening? Mayor told her the previous employee resigned. Was it a civil service position? Yes it was. How many were interviewed and canvassed? The Mayor nor administrator were not 100% positive since the court completed this process. Attorney McDonald told Ms. Miller that the court had to only interview 3 people from the County Civil Service List. She told Ms. Miller that we would gather the information for her at the next board meeting. Ms. Miller asked what the probation period is, Administrator said she was not sure, it's done through the court and union. Ms. Miller asked if there would be over-time available in this position as it was as the Mayor's secretary, again Ms. Miller was told we would have the information at the next meeting for her. Attorney McDonald stated that the court is administered by the NYS Administrative Court Office. So Ms. Miller wanted to know who is involved when a member of the police dept is hired, the Mayor told her the police dept handles that.

ACCEPT RESIGNATION – MAYOR'S SECRETARY

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

BE IT RESOLVED, the resignation of Linda Gangloff, Secretary to Mayor Jesse Nikonowicz effective March 22, 2019 is accepted.

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

Trustee Jakubowski - ABS
Trustee Bukowiecki - Y
Trustee Hamernik - Y
Trustee Peterson – Y
Mayor Nikonowicz -Y

APPOINT FULL TIME COURT CLERK TYPIST VILLAGE HALL

Pursuant to Section 4-400 of Village Law, I Mayor Jesse Nikonowicz, do hereby appoint

Linda Gangloff – 3063 George Urban Blvd. Upper, Depew, NY 14043

to the position of Full Time Court Clerk Typist Village Hall at the rate of \$20.12 per hour effective March 25, 2019.

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

Trustee Jakubowski - ABS
Trustee Bukowiecki - Y
Trustee Hamernik - Y
Trustee Peterson - Abstain
Mayor Nikonowicz - Y

AUTHORIZE MAYOR TO SIGN SERVICE AGREEMENT - GHD

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

WHEREAS, the Village of Depew is currently utilizing GHD 285 Delaware Ave. Suite 500 Buffalo, NY 14202 for Engineering Services in the village of Depew;

NOW THEREFORE BE IT RESOLVED, that Mayor Jesse Nikonowicz is authorized to sign the Professional Engineering Services Proposal for the Phase 5 Sewer Evaluation Survey - Engineering Planning Grant #82540

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

Trustee Jakubowski- ABS
Trustee Bukowiecki – Y
Trustee Hamernik - Y
Trustee Peterson - Y
Mayor Nikonowicz -Y

AUTHORIZE ADMINISTRATOR TO ADVERTISE REORGANIZATION MEETING

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

The Administrator is authorized to advertise for the reorganization meeting to take place on Monday April 1, 2019 at 7:00 pm.

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

Trustee Jakubowski - ABS
Trustee Bukowiecki - Y
Trustee Hamernik - Y
Trustee Peterson - Y
Mayor Nikonowicz - Y

AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR CANVASS THE VOTE MEETING

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

The Administrator is authorized to advertise for a Canvas the Vote meeting to take place on Wednesday March 20, 2019 at 7:00 pm.

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

Trustee Jakubowski - ABS
Trustee Bukowiecki - Y
Trustee Hamernik - Y
Trustee Peterson – Y
Mayor Nikonowicz - Y

AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR PUBLIC HEARING FOR TENTATIVE 2019-2020 BUDGET

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

BE IT RESOLVED, the Village Administrator is hereby authorized to advertise for public hearing for the tentative 2019 - 2020 budget to take place on Monday April 8, 2019 at 7:00 PM in the council chambers.

The forgoing resolution was seconded by Trustee Bukowiecki, and **CARRIED**.

**AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR PUBLIC HEARING
TAX CAP OVERRIDE – LOCAL LAW 1 OF 2019**

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

Be It Resolved, the Village Administrator is authorized to advertise for a public hearing. The public hearing will be held on Monday March 25, 2019 at 7:00 pm in the Council Chambers. The purpose of this hearing is to consider Local Law 1 of 2019 authorizing a property tax levy in excess of the limit established in General Municipal Law Section 3-c. If adopted, the proposed local law shall read as follows:

Section 1. Legislative Intent

It is the intent of this local law to allow the Village of Depew to adopt a budget for the fiscal year commencing June 1, 2019 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law Section 3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law Section 3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3: Tax Levy Limit Override

The Board of Trustees of the Village of Depew, County of Erie, is hereby authorized to adopt a budget for the fiscal year commencing June 1, 2019 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Section 3-c.

Section 4: Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5: Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

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

Trustee Jakubowski- ABS
Trustee Bukowiecki - Y
Trustee Hamernik- Y
Trustee Peterson - Y
Mayor Nikonowicz - Y

PERMISSION – To Hold the Annual Reorganization Meeting

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

BE IT RESOLVED, the Annual Reorganization Meeting of the Village of Depew will be held on Monday, April 1, 2019 at 7PM.

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

Trustee Jakubowski – ABS
Trustee Bukowiecki – Y
Trustee Hamernik – Y
Trustee Peterson – Y
Mayor Nikonowicz – Y

AMENDMENT TO THE VILLAGE CODE, SECTION 198, SOLID WASTE

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

WHEREAS, the Board of Trustees of the Village of Depew, New York held a public hearing on February 11, 2019 at 7:00 pm in the Council Chambers of the Municipal

Building, 85 Manitou St, Depew, NY to consider the amendment to Section 198, SOLID WASTE of the Code of the Village of Depew, and

WHEREAS, all persons were given an opportunity to speak for or against this amendment to the Village Code;

WHEREAS, the proposed Village Code to be amended is as follows:

1. That Section 198 of the Code of the Village of Depew, titled "SOLID WASTE" shall be amended as follows:

Section 198-2 Definitions. shall be amended as by inserting in alphabetical order the following:

That portion of

"NON-RESIDENTIAL UNITS" that states

"or a building containing more than eight units."

shall be amended to say

"or a building containing more than four units."

"SMALL COMMERCIAL UNITS.

For purposes of solid waste disposal, a "small commercial unit" shall be those businesses in the Village which have wastes in similar quantities and types as a residential unit."

and

The heading "UNITS" shall be amended to be "RESIDENTIAL UNITS.", and the definition shall be placed alphabetically in Definitions, with the following amendment:

One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes, in a building with no more than four (4) separate such units. This shall apply to those units that contain only one building on a single tax parcel.

2. That Section 198-3 shall be replaced in its entirety as follows:

"Totes.

Recycling Totes shall be 65 or 95 gallon wheeled carts designated by a green lid or other color as determined by the Village.

Garbage Totes shall be 65 or 95 gallon wheeled carts designated by a black lid or other color as determined by the Village.

All Totes shall be purchased directly through the Village, at a cost to be determined by the Village of Depew. Upon payment of the Totes cost or fee by the Residential unit or the Small Commercial unit, the Totes shall become the property of the unit purchaser.

Only residential units and small commercial units are entitled to purchase totes to be used by the Village contracted garbage collector. All Residential Units and Small Commercial Units shall be entitled to own from 1-3 Garbage Totes and/or 1-2 Recycling Totes but in no case shall a residential or commercial unit own more than 4 total Totes."

3. All other portions of Section 198 of the Village Code, not affected by this amendment, shall remain in full force and effect.

4. Out of compliance business units shall have ninety (90) days to be in compliance before the penalties imposed in Section 198-14 shall be effective regarding these changes.

5. Effective date: This amendment to the Village Code shall take effect immediately This amendment to local law shall take effect immediately upon filing with the Secretary of State, and shall be added to the text of the Village Code thereafter.

NOW THEREFORE, BE IT RESOLVED, this amendment to Village Code 198, SOLID WASTE, as set forth above, is hereby adopted.

The forgoing resolution was seconded by Trustee Bukowiecki, and **CARRIED**.

Trustee Jakubowski - ABS

Trustee Bukowiecki - Y

Trustee Hamernik - Y

Trustee Peterson - Y

Mayor Nikonowicz - Y

WAIVER OF RESIDENCY FOR VILLAGE OF DEPEW POLICE CHIEF

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

WHEREAS, Village of Depew Policy Manual section 402 states that "Residency Requirement. Elected Officials and Department Heads must be residents of the Village of Depew unless a waiver, permitted by law, is granted by the Village Board.",

and

WHEREAS, the Village Board of Trustees recently voted to confirm the Mayors appointment of Jerome Miller as Chief of Police at the January 28, 2019 Village Board meeting, and

WHEREAS, Jerome Miller resides at 62 Pheasant Run Road, Lancaster, NY which is outside the Village, and

WHEREAS, Jerome Miller had resided within the Village of Depew for the majority of his years as an employee of the Village Police Department, and

WHEREAS, Jerome Miller's residence is in a contiguous town that does not impair his ability to be available and respond as the Chief of Police, and

WHEREAS, the Board of Trustees feels that Jerome Miller is the best candidate for Chief of Police and is able to perform his duties even residing in the neighboring town of Lancaster,

NOW, BE IT RESOLVED that the Board of Trustees grants a waiver to Jerome Miller to live outside of the Village of Depew, as long as his residence remains at the current Lancaster address or a closer location, and

The forgoing resolution was seconded by Trustee Peterson, and **CARRIED**.

Trustee Jakubowski - ABS
Trustee Bukowiecki - Y
Trustee Hamernik - Y
Trustee Peterson – Y
Mayor Nikonowicz – Y

VILLAGE TOTE BUYBACK

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

WHEREAS, the Board of Trustees of the Village of Depew has amended the Code of the Village of Depew, Section 198, SOLID WASTE, to limit the number of Totes available to any residential or small commercial unit (hereinafter the Unit) to 1-3 Garbage totes and 1-2 recycling totes, but no more than a total of 4 totes per unit, and

WHEREAS, there are Units that currently possess and/or use more than the new legal limited number of garbage totes, now therefore

BE IT RESOLVED, the Village is authorized to notify the Units out of compliance with the new Village Code, Section 198, that they will have 90 days to come into compliance, and

BE IT FURTHER RESOLVED, that for Business Units that have totes in excess of the new Village limit, the Village is authorized to offer to buy back up to four (4) totes in good and usable condition as determined by the Village Department of Public Works at a cost of \$40.00 per tote, if a request is made by the Business Unit and within the 90 day compliance period.

The forgoing resolution was seconded by Trustee Hamernik, and **CARRIED**.

Trustee Jakubowski - ABS
Trustee Bukowiecki - Y
Trustee Hamernik - Y
Trustee Peterson – Y -
Mayor Nikonowicz - Y

PERMISSION – FIRE DEPARTMENT

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

WHEREAS, Depew Fire Department West End Fire Dept Rescue #7 would like permission to drive the truck to the U Crest Fire Department, 255 Clover Pl, Cheektowaga, NY 14225 on Saturday March 2, 2019 at 8:00 AM and Tuesday March 5, 2019 at 6:00 PM for an extrication class.

WHEREAS, the overview and the safety portion of the class will be at U Crest Fire Hall and then the truck will be going to the hands-on portion of the course

which will be held at LKQ Buffalo Auto Parts, 40 Hopkins St, Buffalo, NY. The hands-on portion will take place on the same dates.

And

WHEREAS, Depew Fire Department Engine #6 would like permission to drive the truck to the Elma Fire Department, 2945 Bowen Rd, Elma, NY 14059 on Saturday March 23, 2019 at 8:00 AM to 5:00 PM for an Emergency Vehicle Operators Course.

BE IT RESOLVED, that the West End Fire Company is hereby authorized to proceed to take the requested truck out of service for the above described reasons.

THEREFORE, BE IT RESOLVED: All of the above foregoing resolution was seconded by Trustee Bukowiecki and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - ABS
Trustee Bukowiecki- Y
Trustee Hamernik -Y
Trustee Peterson- Y
Mayor Nikonowicz -Y

PERMISSION – DEPEW FIRE DEPT

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

Permission is hereby granted to Aetna Hose Co to use the Southside Fire Station for their Company Installation Dinner Saturday April 6, 2019 from 5:00 PM–Midnight.

and

Permission is hereby granted to Aetna Hose Co to use the Southside Fire Station for the Annual Chicken BBQ on Saturday June 1, 2019 from 10:00 AM–10:00 PM.

and

Permission is hereby granted to Aetna Hose Co. to use the Southside Fire Station for their Children’s and Adult Christmas Party on Saturday December 7, 2019 from 10:00AM – Midnight.

All of the above foregoing resolutions was seconded by Trustee Peterson and **CARRIED.**

EMPLOYMENT APPLICATIONS – Rec – Jacob Maciejewski, Michael Steffens, Tessa Zajac, DPW or REC – Austin Pyc,

DEPARTMENT HEAD REPORTS

NONE

UNFINISHED AND OTHER BUSINESS

PUBLIC CONCERNS AND COMMENTS:

Deb Flask with Legislator Bruso’s office came to share the outcome of their recent seminar at the Opera House. Had a wonderful turnout, almost 100 people attended. She brought some surveys that she handed out to interested audience members to complete and return to her that night.

Steve Hoffman responded to the statement the Mayor made in regards to the Recreation Department investigation. He asked where the accountability is. The

laces in question were purchased using tax exempt village funds, and then give to Mr. Fisher who then sold them at a profit. The Mayor explained that it was in error and the money had since been re-paid to the Village. Also that Mr. Fisher was renting Village property and Jim explained that it was a service he needed to have Mr. Fisher run the pro shop, he could not find anyone to agree to a contract for such services. So in turn, yes, the rink was rented to Mr. Fisher 4 times in the past year. Mr. Hoffman stated that with all of Jim's background he should have put out a request for proposal for the service and again Jim stated he couldn't even find anyone interested to give an RFP to. Once again, he questioned where the accountability is. He wants an exact dollar amount of what took place since Mr. Fisher began running the pro shop. Attorney McDonald said he would not get one, the Village signed a contract with Mr. Fisher to supply this service to the Village. At the end of this contract, an RFP will be put out for someone to take over running the pro shop. Jim explained that after the last person to run the pro shop passed away, he looked all summer for someone to do the job, even as far as thinking about his mechanics and ticket takers until someone introduced him to Terry Fisher who then agreed. In Mr. Hoffman's opinion, since he has conducted thousands of investigations, this should have taken 2-3 days, not weeks and weeks. The Mayor explained that he didn't have to do anything since the letter was anonymous, but after seeing some of the allegations, decided to investigate them. Mr. Hoffman asked if the entire board agreed with the statement the Mayor read and the Mayor told him to poll the board if he wanted, which he did. Of the three trustees at the meeting, 2 said that yes, they agreed and one said he did not.

Gabby Miller asked why the year-end financial report was not on the web site. The Mayor apologized and offered that we would correct that immediately and get it put on there. Explaining the change of administrator's being an issue at the time the report was finalized.

Mr. Caparaso, 61 Wyandote St asked if the material at the ice rink on the computer was illegal or not. The Attorney stated that no, it was not illegal. It was a list of sites, none having been opened. Mr. Caparaso wanted to know if what was on there was ok for kids to look at, tax paying parents want to know the answer. There was no answer given in what he considered a timely manner and stated that the board just answered his question. He was told that the Village's IT Dept looked into it and could not determine who might have put the listing of sites on the computer, but did know that they were not opened at any time. His questions was if the IT Dept told the board that and he was told yes. He asked about the DA looking into the matter, and the Mayor said yes, they are continuing the investigation but the Attorney stated they have not been able to determine anything, in fact they had nothing to go on with just the anonymous letter, the Village gave them all of the information they had. They had just enough of someone knew someone who might have known something and are continuing to exhaust those leads. Still looking for someone with first-hand knowledge is what the DA's office told her when they met on February 28th of this year.

Mr. Paul Sprada stated that before the next board meeting, we have a very important village election coming up. He believes the candidates are wonderful and wanted to wish everyone good luck.

CLAIMS AND ACCOUNTS

ON A MOTION BY ON A MOTION BY Trustee Bukowiecki seconded by Trustee Peterson the following claims are to be paid: \$104,142.71 General, \$13,955.00 Community Development, \$8,386.15 Sewer, \$12,702.10 Capital Project Fund was accepted.

ADJOURNMENT

ON A MOTION BY Trustee Hamernik seconded by Trustee Bukowiecki, the meeting was adjourned with a statement that Jake is ill at 8:00 PM. The motion was **CARRIED**.

Respectfully submitted,

Teresa Wachowiak
Village Administrator

