

MEETINGS TO DATE 12  
NO. OF REGULARS: 11

**VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW  
AUGUST 24, 2009**

ROLL CALL: Trustee Hammer  
Trustee Keefe  
Trustee Maryniewski  
Trustee Monti  
Mayor Alberti

**ON A MOTION BY**, Trustee Hammer, and seconded by Trustee Monti, the August 10, 2009 Village Board Minutes were approved.

**PUBLIC COMMENT – AGENDA ITEMS ONLY**

1. Dan Beutler – 27 Tyler Street - Questioned resolution #4 – What is the lease agreement for the copiers about. Who is it with?
2. Mayor Alberti – The lease agreement is for the Recreation & Fire Department copiers with Brian Parisi Copier Systems.
3. Dan Beutler – 27 Tyler Street - Questioned resolution #6 – How many Police cars do we need & are we adding cars or replacing old ones?
4. Mayor Alberti – Asked if Chief Domino was in the audience (he was not). She was not sure how many cars, but it is for replacing cars, not adding new ones.
5. Glen Frink – 14 Lee Street – Commented on Resolution #1 – He does not want his zoning to change.

**PUBLIC HEARING LOCAL LAW #6 OF 2009 –ZONING MAP CHANGES**

Deputy Village Clerk read the legal notice and the Mayor opened the public hearing regarding Local Law #6 of 2009.

Jason Paananen – Nussbaumer & Clarke – Showed new zoning maps and explained why they were changing. If a property had two zoning designations, they will be changed to one to make it easier.

Mayor Alberti – Added to Jason’s comment, that all zoning designations will now be clear.

Shirley Stolarski – 525 Rowley Road – Her zoning is changing from residential to C2. It just does not make sense.

Jason Paananen – Nussbaumer & Clarke – A mistake was made, 525 Rowley will not change, but 569 will change to C2.

Glen Frink – 14 Lee Street – Wants to keep dual zoning of his property.

Mayor Alberti - Questioned why he wants dual zoning?

Glen Frink – 14 Lee Street – He has had nothing but problems with cars parked up & down the Lee Street. Sometimes they are even parked in his driveway. The cars are a result of Zorba’s customers & the Dentist office patients. Changing his zoning would make it possible for the Dentist to buy property next door and turn it into a parking lot. The price difference to sell his house would be \$150,000. He is very concerned about the parking.

Anthony Nosek – Village Attorney – Asked if zoning went right through the middle of his house. He commented on how he did not think that the property next door would be a viable lot.

Dan Beutler – 26 Tyler Street – Applauded Village Board for changing zoning. He questioned the zoning because his home was in a commercial zone. Directed to Bruce Shearer of Nussbaumer & Clarke, businesses have extended past the 100 ft. allowed “commercial” lots. Can they use the lot behind this for parking?

Mayor Alberti – You may not use a residential lot for parking.

Dan Beutler – 26 Tyler Street – So in order to have parking behind a business, you must have more than 100 ft in depth.

Dave Burkhardt – 5 Autumn Lea – Union Auto Sales at Transit & Bissell, why is that commercial lot three deep?

Anthony Nosek – Village Attorney – There is no rational basis for half- &-half lots. They should not be like that. Unfortunately, he cannot answer that question because it predates this Board.

Paul Walter – Residential Building Inspector – Directed to Bruce Shearer, isn’t it true that they now do more accurate surveys via satellite to show where the survey stakes go?

Jason Paananen & Bruce Shearer – Nussbaumer & Clarke – That is not correct. Surveyors can look at Erie county tax maps, but the most accurate way is to get a regular survey done.

Glen Frink – 14 Lee Street – Is this passing tonight?

Anthony Nosek – Village Attorney – This is not passing tonight, this is just a public hearing to get input from the residents to help the Board to make a better decision.

**Village of Depew**  
**August 24, 2009**

Dave Kohler – 6 Princeton – Has a duplex on Princeton. Why are the other five duplexes residential? Why is 1 out of 6 commercial?

Jason Paananen & Bruce Shearer – Nussbaumer & Clarke – (Mr. Kohler comes up to front.) They show Mr. Kohler the new maps, and explain his zoning (quietly). They need to look into this duplex to see if they can be in R2 & C only, and not R1.

On a motion by Trustee Keefe and seconded by Trustee Hammer the public hearing was closed at 8:07 pm.

**PUBLIC HEARING – CRUSHING AGREEMENT WITH DIAMOND D CONSTRUCTION**

Deputy Village Clerk read the legal notice and the Mayor opened the public hearing regarding – Crushing Agreement with Diamond D Construction.

Tom Fischer – 32 Chateau Court – Mr. Dipizio has been bringing debris to this site & Chateau Court has been objecting for over 10 years. What happened to all the court cases? Last fall he was crushing, and the Village stopped it. Now he wants to apply to dump there? (He submits a petition, with 56 names, from the residents of Chateau Court.)

Madeline Dirienzo – 16 Chateau Court – Been complaining for 12 years now. They bought their house knowing it's near Broadway & they would have to deal with the traffic, but now they also have to deal with the air conditioner getting clogged with all the dust. How can the Board let this take place when everyone else is going green? Peoples' homes are their biggest investments & their nest eggs. It's not fair to the rest of us who obey the codes.

Patricia Glynn – 98 Chateau Court – Lived in their home for 10 years. There are 33 kids living on Chateau Court. Everyone obeys the rules, and endures the dumpsite on Indian Road. Our houses are nice, we do not want to deal with & breathe these particles.

Cameron Neiss – 122 Chateau Court – Does he already have this permit? What is his punishment?

Mayor Alberti – He has applied for the permit, but one has not been issued. Doing research to see if an Environmental Health Study is necessary.

Jean Ott – 28 Chateau Court – Stated she has asthma, and wants to know how many particles will be in the air after the crushing?

Paul Schmid – 40 Chateau Court – The crushing permit was voted down at Broadway & Dick Road.

Dan Beutler – 26 Tyler - Did some digging back on Dipizio. Researched Village Board Meeting Minutes from 1998 to present. Read all the information he found in the minutes about Dipizio. He finished by saying the permit should be denied because of his previous actions.

Enid Izatt – 122 Chateau Court – Refers to Dan Beutler's "speech" and requests the Board to deny the permit.

Tom Fischer – 32 Chateau Court – Attends church, crushing is permitted on Wehrle Drive. DEC is watering it down. When it is not watered down, the dust is flying everywhere. So watering it down is not working.

Rich Lewandowski – 114 Chateau Court – When they are working, all you hear is the beeping from the trucks backing up & you get smells from the scrap yard.

Mayor Alberti – All of the members of the Village Board have been up on Dipizio's property and have done their homework.

Anthony Nosek – Village Attorney – This is a general proposition, there are alternatives and legal requirements. He will speak with the DEC to get their prospective. The DEC favors recycling and are pro-crushing. They favor well-controlled stone crushing. The Village Board have discussed possible controls such as sound, dust levels etc. and any permit issued is subject to environmental review. The board will follow this environmental review. Maybe the Board will amend or change, deny, or approve with conditions. The DEC approves of the limited Lipman Model 42 Crusher because the noise levels are reasonable. Mr. Dipizio is involved in a State Supreme Court case where the litigation is pending.

Carl Steiner – 107 Chateau Court - Asked, if a decision is made by the DEC, does that mean it will automatically be approved in Depew? How many properties are crushing in the Village? He wants the Village to move in a positive direction.

Dave Burkhardt – 5 Autumn Lea - The DEC does not have any concern for area residents. Requests the Board does not make their decision based on the DEC decision.

Mayor Alberti - Cut the question period to give Mr. Dipizio a chance to answer questions.

Joseph Dipizio – 217 Strasmer Road – There are too many questions to answer right now. Years ago when he first started out, the Village did not require a crushing permit, which is why there is not one on file. He is not trying to harm anyone; he actually capped the dump across the street. As far as the Supreme Court case, they served him & he is the wrong person. He will not do any crushing until this is resolved. The DEC will be testing for any problems with noise levels and air tests. He

**Village of Depew  
August 24, 2009**

is crushing in East Aurora, right in the middle of town and there are not any problems. What about Buffalo Stone? Why didn't the residents fight that? He fought it.

Mayor Alberti to Joan Priebe – 15 Howard Lane - Mr. Dipizio is correct, the code did not go into effect until 2001 and he was dumping prior to this date. Isn't this correct Ms. Priebe(former Village Clerk)?

Joan Priebe – 15 Howard Lane – Yes, this is correct.

Mayor Alberti – While visiting Mr. Dipizio's property she saw crushed material & uncrushed material, trailers, and construction equipment. She thought that if it was organized better, maybe both Mr. Dipizio & residents could be ok with the Boards' decision. The Village Board could impose strict regulations such as: restrict the crushing to certain months, maybe October or November through March, restrict hours of operation to Monday – Friday 9am-5pm, remove trailers, order the location of the crusher to be at the furthest West point of the property, which is 3000 ft or ½ mile away from residents properties. The Board is going to take many things into consideration.

Tony Nosek – Village Attorney - Read a list of other possible restrictions.

Mayor Alberti – If we do not allow it, how will it be cleaned up? It will sit there forever. Last year we gave a crushing permit to the Dresser Plant with stipulations. There were no problems, and the work was complete before the permit expired.

Joseph Dipizio – 217 Strasmer Road – In this situation, the County & State encourages recycling. He crushes in the Middle of the following towns with no problems: Hamburg, East Aurora, Buffalo & Rochester.

Anthony Nosek – Village Attorney – Discussed wind issue.

Carl Monti – Village Trustee – Is a dumping permit necessary for recycling material?

Mayor Alberti – That issue will be discussed at a different time.

On a motion by Trustee Keefe and seconded by Trustee Hammer the public hearing was closed at 9:30 pm.

**AUTHORIZE ECONOMIC ENHANCEMENT ZONE**

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

**WHEREAS**, the Village of Depew (“Village”) desires to improve the vitality of the commercial areas; and

**WHEREAS**, the Village has determined that the following streets would be designated as in an “Economic Enhancement Zone” – Town of Lancaster side only - Walden Ave, Transit Rd, Broadway, Main St, Penora St, Gould Ave, Neoga St, Sanilac, St. Mary’s Pl. and Terrace Blvd; and

**WHEREAS**, the Village has determined that providing financial and tax incentives to retail businesses and to the owners of commercial property occupied by retail businesses on the above named streets for the purpose of renovation and expansion of such properties will stimulate desirable redevelopment, expansion and retention of such businesses; and

**WHEREAS**, the Erie County Industrial Development Agency is a public benefit corporation constituted for the purpose of assisting development, expansion and retention of businesses within the County of Erie by providing certain financial and tax incentives to eligible businesses; and

**WHEREAS**, the Town of Lancaster Industrial Development Agency is a public benefit corporation constituted for similar purposes within the Town of Lancaster; and

**WHEREAS**, New York General Municipal Law Section 862 provides that, in order for such agencies to assist businesses engaged in retail sales of goods and services, such agencies must find that such goods and services would not be reasonably accessible to residents of the Village without such agency’s assistance; and

**WHEREAS**, the Village wishes to support such agencies in making such findings of necessity for businesses in the Economic Enhancement Zone;

**NOW, THEREFORE, BE IT RESOLVED** that the Depew Village Board finds the availability of a full range of goods and services provided by retail businesses is crucial to the continued vitality of neighborhoods and that the continued vitality of such neighborhoods is important to the continued health, safety and welfare of all of the residents of all of the Village.

**Village of Depew  
August 24, 2009**

BE IT FURTHER RESOLVED, that the Depew Village Board hereby designates the following streets on the Town of Lancaster side only - Walden Ave, Transit Rd, Broadway, Main St, Penora St, Gould Ave, Neoga St, Sanilac, St. Mary's Place and Terrace Blvd and such areas as hereafter may be designated in future amendments to this resolution, an "Economic Enhancement Zone"; and

BE IT FURTHER RESOLVED, that the Depew Village Board hereby requests that the Erie County Industrial Development Agency, and/or the Town of Lancaster Industrial Development Agency, to assist in the establishment, redevelopment, expansion, and retention of businesses in said Economic Enhancement Zone; and

BE IT FURTHER RESOLVED, that the Depew Village Board hereby requests that the Erie County Industrial Development Agency, and/or the Town of Lancaster Industrial Development Agency, take all steps necessary to assist establishment, redevelopment, expansion and retention of retail businesses in said Economic Enhancement Zone.

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

Trustee Hammer – Yes  
Trustee Keefe – Yes  
Trustee Maryniewski - Yes  
Trustee Monti - Yes  
Mayor Alberti – Yes

**AUTHORIZE MAYOR TO SIGN MAINTENANCE AGREEMENT - COPIERS**

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

**WHEREAS**, the current maintenance agreements have expired for the copiers at the Fire Halls and the Recreation Department and new agreements need to be executed;

**BE IT RESOLVED**, Mayor Barbara A. Alberti is authorized to sign the maintenance agreements for four copiers in the amount of \$1,248.00 for the period August 15, 2009 – August 15, 2010 with Brian Parisi Copier Systems, Inc. 4915 Genesee St Cheektowaga NY 14225.

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

Trustee Hammer – Yes, with stipulation

Trustee Hammer: "I would like to add an amendment to this resolution. I would like it to state and add as a stipulation, that this is a maintenance agreement, and this is the only charge, & there will be no additional fee for the 4 copiers because we were kind of in the air as was this for the maintenance or was this for the purchase of the copiers also."

Trustee Keefe – No  
Trustee Maryniewski – Yes  
Trustee Monti – Yes, with stipulation  
Mayor Alberti – Yes

**AUTHORIZE BENEFITS UNDER FIREFIGHTER'S SERVICE AWARD PROGRAM**

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

**WHEREAS**, the following fireman has met all necessary requirements under the Depew Fire Department's Service Award Program;

**BE IT RESOLVED**, the Village does hereby approve the Service Award benefit entitlement to the following participant as stipulated under said program effective October 1, 2009 at a monthly amount of \$300.00.

**Village of Depew  
August 24, 2009**

Jack Edwards  
9823 NC 218  
East Peachland, NC 28133

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

Trustee Hammer – Yes  
Trustee Keefe – Yes  
Trustee Maryniewski - Abstain  
Trustee Monti - Yes  
Mayor Alberti – Yes

**AUTHORIZE ADMINISTRATOR TO ADVERTISE FOR POLICE VEHICLES**

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

**BE IT RESOLVED**, the Village Administrator is hereby authorized to advertise for Police Vehicles as per the village budget.

The foregoing resolution was seconded by Trustee Keefe, and **CARRIED**.

**PERMISSION – DEPEW FIRE DEPT**

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

Permission is hereby granted to:

Depew Fire Dept. for the use of department apparatus for the Cheektowaga Soccer Club Parade on Saturday August 29 from 11:00 am until the end of the parade. The Parade starts on Fredrick and will end at the Rehm Road Park parking lot.

And

Depew Fire Dept. for the use of 1941 Buffalo Fire Engine on Sunday August 30, 2009 from 9:30 am until 4:00 pm for a classic car show at St. Barnabas.

And

Depew Fire Dept. for the use of department apparatus for the Annual Inspection on Saturday September 12 from 6:00 pm until 8:00 pm at Fireman's Park.

The foregoing resolution was seconded by Trustee Hammer, and **CARRIED**.

**TREE TRIMMING/REMOVAL**: 14 Michele Drive, 209 Darwin Drive, 125 Argus Drive, 333 French Road, 183 Irving Terrace

**EMPLOYMENT APPLICATIONS**: Heavy Equipment Operator – Michael Mosier, Court Officer – John Lewandowski

**DEPARTMENT HEAD REPORTS**:

None.

**BUILDING APPLICATIONS AND REPORTS**

**ON A MOTION BY** Trustee Hammer, seconded by Trustee Monti, the building inspector reports were accepted as presented. Also approved was the DPW to cut the bushes at 100 Main Street.

**REPORT OF THE VILLAGE ATTORNEY**

None.

**Village of Depew  
August 24, 2009**

**REPORT OF THE VILLAGE ENGINEER**

Curt from Nussbaumer & Clarke – Brian Higgins wrote a letter to the Board of Engineers. As a Congressman, he has put as much pressure as he can on the Zurbrick Road issue.

**COMMITTEE REPORTS**

Trustee Keefe – As part of the NEST Committee, made an announcement about the upcoming hazardous waste drop off day. It will be held on Saturday, September 12, 2009 from 9am-2pm at Honeywell, 20 Peabody Street in Buffalo. It does not take very long to drop off items because there are many people & it is very organized.

Trustee Monti – the pools are now closed, along with all summer recreation programs. Also, during the second Annual Police vs. Fire Department softball game held on Sunday August 23, the Fire Department defeated the Police department 19-15.

**UNFINISHED AND OTHER BUSINESS**

Mayor Alberti:

1. Community Policing – Last week she walked with the Community Policing Unit around the area of Penora & Main Street. She met with local residents along the way, & received feedback on absentee property owners in the area.
2. She got a call to officiate her second wedding. She joked that this may be her new calling.

**PUBLIC CONCERNS AND COMMENTS**

None.

**CLAIMS AND ACCOUNTS**

**ON A MOTION BY** Trustee Hammer, seconded by Trustee Maryniewski, the following claims are to be paid: General \$149,955.34, Sewer \$128.47, Capital \$9,634.94. The motion was **CARRIED**.

**ADJOURNMENT**

**ON A MOTION BY** Trustee Monti, seconded by Trustee Keefe, the meeting was adjourned at **9:46 pm** in honor of the Buffalo Fire Lt. Charles W. “Chip” McCarthy, Jr. & Buffalo Firefighter Jonathan S. Croom who perished in an early morning fire on Genesee Street, Buffalo, trying to rescue a victim. May they rest in peace. The motion was **CARRIED**.

Respectfully submitted,

Carmi M. Poss  
Deputy Village Clerk