

VILLAGE OF CHESTER
Board of Trustees Meeting Minutes
December 4, 2017

The Board of Trustees of the Village of Chester held their monthly meeting in the Village Hall meeting room on Monday, December 4, 2017.

Members present: Mayor John Tom Bell, Deputy Mayor, Trustee, Alan Battiato, and Trustee, Elizabeth A. Reilly and Trustee, Brian J. Boone. Deputy Mayor, Christopher Battiato was absent.

Also, present: Village Treasurer, Angela O'Neill, Village Attorney, Henry Christensen, Village Police Chief, Peter J. Graziano Jr., Village Street Superintendent, Charles Bono, and Village Code Enforcement Officer/Building Inspector, John Orr. Village Clerk, Rebecca Rivera and Water Commissioner, Gary A. Green Jr. were absent.

Mayor John Tom Bell opened the meeting at 7:10 PM.

AUDIT OF BILLS: Mayor John Tom Bell noted that the audit of the Village's monthly bills for approval was complete.

A motion to pay the audited bills, was made by Trustee, Elizabeth A. Reilly, second by Trustee, Alan Battiato. Motion unanimously passed.

APPROVAL OF MINUTES: Monthly meeting minutes of November 14, 2017, and October 10, 2017, Public Hearing Minutes were tabled until the January 8, 2018 Village Board Meeting.

CASH BALANCES ENDING NOVEMBER 30, 2017

<u>Fund/Bank Account</u>	<u>Deposits</u>	<u>(Disbursements)</u>	<u>Interest</u>	<u>Ending Balance</u>
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General Fund

Savings (Sterling National Bank)	--	-	605.58	2,907,414.95
Checking (Orange County Trust)	233,374.67	8,871.71	8.81	78,462.41
Savings (Orange County Trust)	--	0,000.00	317.35	3,387,114.84

Water Fund

Capital Checking	--	--	7.66	91,924.42
Checking	136,270.62	84,275.88	18.36	410,460.68

Sewer Fund

Checking	100,652.14	305,910.49	35.63	577,328.53
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Cumulative Fiscal Year Interest Earned by Fund 06/1/17 – 05/31/2018

General Fund \$ 5,722.37

Water Fund \$ 159.21

Treasurer's Discussion:

1. **STATEMENT OF REVENUE & EXPENDITURES:** Year to Date Report is attached.
2. **2017-2018 COLLECTION:** Collection of Village Sewer continues. Sewer installment #3 is due by 01/02/18.
3. **BAN RENEWAL:** BAN renewal rate quote requests will be emailed to (3) separate banks for the upcoming renewal of the Village's BAN in the amount of \$172,000. Quote requests will be emailed tomorrow, 12/5/2017.
4. **BUDGET ADJUSTMENT:** Requesting Board Permission to post a budget adjustment for the \$2,500 donation received from McDonald's to the Police Department.

A motion to accept the Treasurer's report as read was made by Trustee, Elizabeth A. Reilly, second by Trustee, Alan Battiato.

A motion to approve the budget adjustment was made by Trustee, Elizabeth A. Reilly, second by Trustee, Alan Battiato.

BUILDING REPORT: Building Inspector/Code Enforcement Officer, John Orr, read his report as follows:

Peterman – 11 Elm Street

- 1- Footing & foundation now in.

Meadow Hill – 44 High St.

- 1- Issued permit for construction of Pavilion.

Castle – 109 Brookside Ave

- 1- Issued permit for construction of deck for the Zipline.

Pep Boys – 29 Elizabeth Dr.

- 1- Issued permit for alteration to product racking.

BYK – 48 Leone Lane

- 1- Work started.
- 2- Footings and walls poured.

POLICE REPORT: Chief of Police, Peter J Graziano Jr, read his report as follows:

1. Personnel:

- No Issues.

2. Citizen Issues:

- No Issues

3. Public Safety Issues:

- Traffic Details: Continuing.

4. Facilities:

- No Issues.

Equipment:

- 3 of the 4 AEDs are out of service. Batteries need replacement at \$300+ each and they are no longer being supported as of the end of the month per the company. The newer models are \$2400 each.

6. Vehicles:

No issues.

7. Other:

- PESH Inspection Results – All items were completed a month ahead of schedule and we have received a letter that the case has been closed.

8. Department Activity YTD:

Call Type	2017
Calls for Service	2550
Criminal Cases	532
Arrests	317
Traffic Accidents	195

STREET REPORT: Street Superintendent, Charles Bono, read his report as follows:

As of December 1st, our season for the bulk pick up of leaves, along with our Green Waste Removal Program has come to an end. We would like to thank village residents for their cooperation in putting out their leaves as early as possible. Our Green Waste Removal Program will resume on April 1st 2018.

With the winter months approaching we would like to remind village residents of a few simple guidelines to help aid the street dept. with the removal of snow:

1. Please do not place garbage receptacles out in the street or onto sidewalks. Garbage receptacles should be placed behind the curb. With the current Garbage Company, the garbage trucks have arms on them to reach out way past the curb in order to pick up your receptacles.

2. Bulk collection for garbage pickup occurs only during the months of April to November.

3. Although the village street dept. provides a courtesy by clearing the sidewalks. It is still the property owner's responsibility to maintain the sidewalks and keep them cleared of snow and ice.

5. Please do not relocate snow from driveways and sidewalks into the street. This is a violation of the New York State Highway Law (Article 8, Section 214) and will cause a hazardous condition on the street.

6. Please remember the village snow ordinance that is in effect from November 1st to April 15th, between the hours of 3:00am to 6:00am.

The holiday decorations have been put up on Main Street and Academy Ave.

The Street department will be collecting Christmas trees the week after Christmas. Please make sure, that all ornaments, lights, stands and plastic bags that are wrapped around the tree are removed and that the tree is placed curbside. The last day for collecting Christmas trees will be January 31, 2018.

Installed new electric conduit for the new fuel pumps from the fuel pad to the building. Mayor, John Tom Bell asked how long it would take to complete the installation of the fuel tanks. Street superintendent responded that it would take approximately two weeks.

A motion to accept the Street Department report, as read, was made by Trustee, Elizabeth A. Reilly, second by Trustee, Alan Battiato. Motion unanimously passed.

WATER REPORT: Water Commissioner, Gary Green Jr., read his report as follows:

- 1) Daily filter plant & well operations
- 2) Twice per week filter cleaning
- 3) Village wide water main flushing completed
- 4) On site for flow test at Lowe's
- 5) Shut off of the seasonal customers
- 6) Shut off and blew out lawn irrigation at Carpenter Field
- 7) Monthly samples were taken to lab for testing
- 8) Marking out of water lines for Dig Safe N.Y.
- 9) Village wide valve box clean out continues
- 10) Repaired broken curb stop at 5 Vadala
- 11) Assisted contractor at a service line leak at Ricky Lane
- 12) Repaired service line leak at 11 North Hudson Street
- 13) Painted and installed hydrant markers

Mayor, John Tom Bell stated that a letter from the DEC was received regarding a voluntary water restriction. When Walton Lake is measured below 15" below the pin, automatic voluntary restrictions are placed. Per DEC Order notice of restriction was published and also appears on the Village of Chester's website.

A motion to accept the Water Department report, as read, was made by Trustee, Elizabeth A. Reilly, second by Trustee, Alan Battiato. Motion unanimously passed.

PARK & RECREATION: No one present from Park & Recreation.

OTHER BUSINESS:

Mayor, John Tom Bell introduced Attorney, Mary Marzolla, and Attorney, Donald Feerick of Feerick Lynch MacCartney & Nugent Law Firm. Mayor, John Tom Bell requested that the attorneys provide a brief

summary of the outcome of the litigation surround BT Holdings case. Mr. Feerick provided a time line of the case and the judge's requirements and see if she could negotiate a resolution that would expose none of the parties involved to incur any financial expense prior to the case going to trial. Last summer the judge suggested an application for a site plan of the development be submitted to the Village so that discussions between both parties could be initiated and postponed the trial from June to October 2017. During those months no application for a site plan was submitted. Trial began on October 30, 2017 and the attorneys went into trial with an understanding that BT Holdings LLC was looking for a monetary settlement in the neighborhood of \$9 million. Once the trial began, a demand for monetary damages was presented to the jury for approximately \$13 million. During the course of the trial, counsel believed that there were some erroneous rulings from the court that would impact an appeal, should the Village of Chester decide to appeal the case. Prior to the ruling, discussions took place between both parties in order to reach a settlement that would bridge the gap and derive at a settlement both parties could live with. BT Holdings continued to demand monetary damages in the neighborhood of \$5 million. During the damage phase of the trial, counsel believed that there were additional erroneous rulings made by the judge that could also be presented during the appeal process, should the Village of Chester decide to appeal the case. A judgement for damages for the plaintiff was delivered by the jury in the amount of \$2,375,000, far less than prior demands but still a very big number for the Village Board to accept. The Village has the option to appeal at no cost to the Village until the end of the appellate process and legal fees payable only should the outcome of the appeal be favorable to the Village of Chester. Mr. Feerick stated that the erroneous rulings made by the court during the trial are significant and should be addressed and the Village should fight in the appeal process resulting in a positive outcome for the Village of Chester.

Attorney, Mary Marzolla of Feerick, Lynch, MacCartney & Nugent also spoke commending the Village Board in their dedication and time given during this case in order represent the residents of the Village of Chester. Serious consideration has been given by the Village Board to all aspects of this case. The attorneys believe in the appeal so strongly that they are recommending the Village of Chester appeal this case and will appeal on a contingency basis with no costs to be incurred by the Village unless a positive outcome is reached at the end of the appeal process.

Trustee, Elizabeth A. Reilly introduced a motion to request to enter into executive session at 7:35p.m. with counsel for client-attorney discussion, second by Trustee Brian J. Boone. Motion unanimously passed.

A motion to come out of executive session at 7:50 p.m. was introduced by Trustee Elizabeth Ann Reilly, second by Alan Battiato. Motion unanimously passed.

RESOLUTION TO AUTHORIZE SPECIAL COUNSEL TO REPRESENT THE VILLAGE REGARDING AN APPEAL

A Meeting of the Village Board of the Village of Chester was convened on December 4, 2017 at 7:00 p.m.

The following Resolution was duly offered and seconded to wit:

RESOLUTION TO AUTHORIZE SPECIAL COUNSEL TO REPRESENT THE VILLAGE REGARDING AN APPEAL

WHEREAS, the Village previously retained Special Counsel Feerick Lynch MacCartney & Nugent, PLLC, ("Special Counsel") to represent the Village in certain legal matters; and

WHEREAS, the Village of Chester ("Village") was named as a party in a lawsuit entitled BT Holdings, LLC. v. Village of Chester and Village of Chester Board of Trustees, under Orange County Index No. 1480/2015 (the "Litigation"); and

WHEREAS, the Village requires Special Counsel to undertake representation of the Village in this Litigation to file and perfect an appeal of all matters adverse to the Village from the Trial Court Record and all Trial Court Rulings and Judgments and otherwise to protect the rights of the Village concerning said Litigation; and

NOW, THEREFORE, it is resolved as follows:

Section 1. All “WHEREAS” paragraphs are incorporated herein by reference as though set forth in full herein.

Section 2. Special Counsel is authorized to take the above appellate actions concerning said Litigation upon a contingency basis for legal services. Said contingency basis shall be if the Monetary Verdict and any following Monetary Judgment against the Village from this Litigation before the Trial Court is not vacated or otherwise not reversed upon an appeal to the Appellate Division, Second Department, then and in that event Special Counsel shall not be entitled to payment from the Village for such legal services. If Special Counsel is successful in the Appellate Division, Second Department in vacating the Monetary Verdict and any following Monetary Judgment, then and in that event the Village Counsel shall be required to pay Special Counsel for all such appellate legal services at the hourly rate currently payable at this time for Special Counsel. Notwithstanding the foregoing, the Village shall be required at all times to pay and shall be solely responsible for the payment of all disbursements and costs incurred in the Appeal, including but not limited to the Record on Appeal and all Appellate Briefs. Said payment by the Village of the foregoing will be due when said costs or disbursements are presented by Special Counsel to the Village.

Section 3. Special Counsel shall also coordinate with any and all Insurance Companies in contract with the Village to have said Insurance Companies pay or otherwise reimburse the Village for all expenditures of legal fees, disbursements and/or costs incurred by the Village as a result of this Resolution.

Section 4. This Resolution shall be effective immediately.

A motion to adopt the resolution as read was introduced by Trustee, Brian Boone, second by Trustee, Elizabeth Ann Reilly.

The question of the adoption of the foregoing was duly put to a vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Mayor John T. Bell	[X]	[]	[]	[]
Deputy Mayor Christopher Battiato	[]	[]	[]	[X]
Trustee Alan Battiato	[X]	[]	[]	[]
Trustee Elizabeth A. Reilly	[X]	[]	[]	[]
Trustee Brian J. Boone	[X]	[]	[]	[]

The Resolution was thereupon duly adopted.

CALENDAR:

- **December 10, 2017 at 5pm, Chester Historical 25th Annual Tree Lighting** and Parade – Sponsored by Chester Historical Society. Tetz is bringing their Clydesdale horses to join the parade Beginning at the 4:30 pm on Hudson Street, by Flynn’s Funeral and ending the train station by the Erie Depot, next to trail. For more information go to: chesterhistoricalsociety.com
- **Village Offices Holiday hours are as follows:**

December 22, 2017 – 9am – 1pm
December 25, 2017 – Office Closed
December 29, 2017 – 9am – 1pm
January 01, 2018 - Office Closed

- **Proposed Village of Chester Comprehensive Plan-** Scheduled for Saturday, January 27, 2018 @ 9:30AM at the Chester Senior Center located on Kings Highway.

Mayor asked for Board Members to review the 2018 calendar prepared by the Village Clerk, Rebecca Rivera and advise of any changes. Any changes may be addressed at the January 2018 Village Board Meeting.

PUBLIC DISCUSSION:

Village Resident, Cliff Patrick of 117- 119 Brookside Ave, suggested that correspondence related to the Comprehensive Plan, Street and Water Dept. notices be mailed out with Village's water, sewer and/or tax billings in order to keep the Village Residents informed. Building Inspector/Code Enforcement Officer, John Orr suggested that Planning Board Secretary and Treasurer, Angela O'Neill meet during the week to review 2018 annual mailings of the Village of Chester in order to implement Cliff Patrick's suggestion.

Village Resident, Leslie Smith of 117-119 Brookside Ave, stated that the Village can submit press releases related to the Comprehensive Plan to the Chronicle.

Village Resident, Eileen Hand of 9 Railroad Ave., suggested that a flier be created and submitted to Loretta Streichert of the Parks & Recreation Department so that it can read or broadcasted on the local news channel. Building Inspector/Code Enforcement Officer, John Orr stated that he would have the planning board secretary, Sandra VanRiper reach out to Loretta Streichert to coordinate this effort.

Simon Ziegler of Sun Sprout Farms asked if the Village Board had discussed and reached a decision regarding their request for water supply to his farm. Mayor, John Tom Bell stated that there were some additional items Simon Ziegler of Sun Sprout Farms was supposed to find out as well related to right of way, but the Village Board would not have a problem allowing the use of Village of Chester water supply for his farm. Simon Ziegler will appear on January 8, 2018 Village Board Meeting Agenda for a formal vote on use of Village water for farming. Mayor, John Tom Bell asked Simon Ziegler to contact the Village Clerk, Rebecca Rivera and request to be placed on the January 8, 2017 Agenda.

Village Resident, David Stevenson of 16 Elm Street, wanted to know if there was any movement on having a comprehensive plan meeting at Whispering Hills in order to reach more members of the community. Mayor, John Tom Bell stated that it is the intent to do so, but the next Whispering Hills Board Meeting is not until January 2018.

ADJOURNEMENT:

A motion to adjourn the meeting and enter into executive session at 8:00 p.m. and no further business will be conducted, was made by Trustee, Alan Battiato and second by Trustee, Brian Boone. Motion unanimously passed.

Respectfully submitted,

Angela O'Neill
Village Treasurer

