

**VILLAGE OF EAST AURORA
VILLAGE BOARD MEETING
July 18, 2016 – 7 PM**

Present: Mayor Allan Kasprzak

Trustees: Patrick Shea, Ernest Scheer, Peter Mercurio, Deborah Carr-Hoagland, Alfred McCabe, Raymond Byrnes

Also Present:

Bryan Gazda, Village Administrator

Robert Pierce, Village Attorney

Shane Krieger, Police Chief

Matthew Hoeh, Department of Public Works Superintendent

William Kramer, Code Enforcement Officer

Catherine Gazda, Deputy Clerk Treasurer

East Aurora Advertiser

East Aurora Bee

24 members of the public

Mayor Kasprzak opened the meeting at 7:00 pm followed by the Pledge of Allegiance.

Motion by Trustee Mercurio to approve the minutes from July 5, 2016. Seconded by Trustee Byrnes and unanimously carried.

Trustee Carr-Hoagland moved to approve the payment of vouchers:

2016: #54385 – 54444 in the amount of \$6,948.57

2017: #54384 – 54443 in the amount of \$85,099.17

Seconded by Trustee Byrnes and unanimously carried.

PUBLIC HEARINGS

- Motion by Trustee Carr-Hoagland to open a public hearing at 7:02 pm to discuss the proposed Local Law #1 of 2016 to amend Chapter 285 of the Code changing the zoning classification of 45 Church Street from Commercial (C) to Residential-Group-New Townhouse (RGN). Motion seconded by Trustee Shea and unanimously carried.

Michael Farrell, 1032 Sweet Road, stated that he is in favor of the proposed zoning reclassification. No other members of the public offered any comments. Trustee Mercurio commented that he feels the proposal is good use of the space. Administrator Gazda added that because the SEQR review still must be performed, there would be no further action on the proposal until the next Board Meeting on August 1, 2016.

Motion to close the public hearing at 7:04 pm by Trustee Mercurio. Motion seconded by Trustee Scheer and unanimously carried.

SPEAKERS & COMMUNICATIONS (I)

- Town Justice Jeffrey Markello, 571 Main Street:

Justice Markello addressed the Board as a Tenant of 571 Main Street with regard to his request for the installation of new security cameras. He noted that the Town Court is in need of additional security while court proceedings are in session. Although the Court has waited 10 months and still has not received the results of a formal security assessment, they do wish to move forward at this time. The Court has attained nearly \$3,200.00 in grant funding from the Justice Court Assistance Program which will be used to cover the cost of the cameras and installation. Justice Markello, Chief Krieger, and Administrator Gazda recently consulted together with Advanced Alarm, a well-respected local company, and installation of the cameras is tentatively scheduled for August 2, 2016. Three new cameras will transmit a live video feed to dispatch: a camera in the upstairs hallway with an additional viewing screen there as well, a camera in the old courtroom, and a camera in the corner of the board room. Trustee Shea inquired about maintenance of the camera systems and Justice Markello noted that any additional maintenance costs have not been discussed. Chief Krieger noted that the Village's current service agreement with Advanced Alarm would not include the new cameras. Further discussion ensued regarding the need for a metal detector as well.

Motion to approve the installation of new security cameras by Trustee Shea. Motion seconded by Trustee Carr-Hoagland and unanimously carried.

- Police Chief Shane Krieger, 571 Main Street:

Chief Krieger publically recognized and commended Trustee Mercurio for his heroic efforts on Saturday, July 16, 2016 which ultimately resulted in him saving a woman's life. While out and about, Trustee Mercurio noticed a garden hose connected to the tailpipe of a vehicle in a driveway with the other end of the hose entering the car. He determined that this person needed assistance. After leaving briefly, he came back to the scene but the vehicle was no longer in the driveway. Trustee Mercurio investigated the area, discovered an entry into the garage, found the car inside and took quick action which saved this person's life. Trustee Mercurio commented that it was just too bad that someone can reach such a sad point. The Board and public applauded his quick thinking and compassionate efforts.

- Betsy Schwartz-Graves, 258 Olean Street:

Betsy Schwartz-Graves asked the Village Board who from the Village determined that the Rotary Club needed a Temporary Use Permit in order to hold their annual party at The Healthy Zone Rink. She noted that a Rotary representative came into the Village Hall in order to acquire a Banner Permit to hang their annual party advertisement on the railroad viaduct. The Rotary Club representative was told at that time that he would also need a Temporary Use Permit for the event. Mayor Kasprzak explained that all permit requests are handled directly through the Clerk-Treasurer's office. Ms. Schwartz-Graves noted that, per Village Code, a Temporary Use Permit is needed for an establishment that is enclosed by four walls wishing to hold an event outside of those four walls. She argued that because the ice rink does not have four walls that the event should be exempt from this Code. Mayor Kasprzak noted that there are multiple sections of Village Code, and one issue affecting the need for a Temporary Use Permit pertains to loud music. He further explained that a Temporary Use Permit is issued to protect both the Village and the applicant: the Village Board is able to review the application and issue a documented approval for the

applicant to then have which dictates and allows for the specific parameters of the event, such as the hours and outdoor music. Ms. Schwartz-Graves inquired whether or not concerned Village Board members made any attempt to mediate their concerns with the Rotary Club prior to voting no to their application for a Temporary Use Permit. The Mayor replied that mediation is not the role of the Village Board. The Village Board is only required to evaluate a request and make a yes or no vote on it. It is the role of the applicant to approach the Village Office in order to determine what is needed for a request. He added that although it is not the Board's job to mediate, the Village is often more than willing to sit down and talk out what needs to be done or cannot be done on a case-by-case basis as requested during the application process; however, once the formal request comes through, it is the job of the Board simply to evaluate the request and vote either yeah or nay or table the request. A Board member may articulate further if they wish to but it is not required. Mayor Kasprzak advised Ms. Schwartz-Graves that she could check the minutes to find out what discussion may have taken place on the night of the vote, but he noted that his particular question that evening was why a permit was being requested for an event that had already been advertised for. He also reiterated that it is the responsibility of the applicant to find out what permits are needed and make the proper requests. Trustee Carr-Hoagland addressed Ms. Schwartz-Graves question as well and noted that during discussion at the previous Board Meeting, she asked the question of what the capacity at the ice rink is and how many people are anticipated to attend. Trustee Carr-Hoagland also stated that she respects the advice of our Police Department which does not recommend the ice rink as a good venue for this event.

Administrator Gazda reported that Allen Ott called him on Tuesday July 12, 2016 and requested to meet with him and Mayor Kasprzak the next day. Since he was scheduled to be off on Wednesday, they met on Thursday, July 14, 2016 at 10:15 am. Attendees included himself, Mayor Kasprzak, Attorney Pierce, Trustee Byrnes who just happened to be in the office at the time, and three members of the Rotary Club, including Allen Ott. The Rotary stated that they had held a meeting on Monday, July 11, 2016 at which time the Club voted to move forward with holding their annual party at the Healthy Zone rink despite their Temporary Use Permit application being denied by the Village Board on July 5, 2016. Ms. Schwartz-Graves feels that the Village Board should have all been notified to attend this day time meeting. Trustees Mercurio and McCabe also voiced an interest to have been made aware prior to the time that they were.

Ms. Schwartz-Graves also commented that she feels that Pine Street Extension is not well lit.

- Will McDonald, Aurora Ice Association (AIA) Board Member, 681 Main Street:

Stated that he hopes the Village Board, AIA Board, and Rotary Club can all be friendly and use proper dialogue to avoid the costs of useless lawsuits. He noted that these are all great organizations with many volunteers. He added that he has been with the AIA for ten years and that the ice rink is a \$5,000,000.00 property that is a gem in the Village.

OFFICIAL CONSIDERATIONS

- Steven Tanner, Clark Patterson Lee:

Mr. Tanner addressed the Board with regard to some cost changes in estimates that were previously provided for Village projects:

The Knox Road sidewalk project was initially estimated using a standard price per foot for typical sidewalk construction on fairly flat roads within a Village setting. However, the only way to stay within this budget is to place these sidewalks right next to the roadway, which does not meet safety standards from NYS Department of Transportation due to moving vehicles being within a very close proximity to the sidewalk. A variance can be sought but is not recommended. These sidewalks should be placed on the opposite side of the guard rail, however there is a large culvert located there and a great deal of fill and additional engineering will be needed. A railing will be placed on the opposite side of the sidewalk. The updated Knox Road sidewalk project cost is \$212,250.00 which is more than double the initial estimate of \$72,000.00. In addition, if the sidewalks run to the front part of the parking lot, then 45 feet of sidewalks will be located on Town of Aurora property. This issue can be avoided by turning the sidewalks to make them end at the back of the parking lot. There is no cost difference between these two options.

The Cazenovia Creek and South Street sidewalk project also has a new estimate that is approximately double the initial estimated cost. This is because the initial estimate was based on sidewalk construction on South Street between Center and Spring Streets. After this estimate was done, additional design work along South Street from Spring Street to South Grove was also requested, effectively doubling the length of new sidewalks. The survey for the extra sidewalks has been done but the design work has not yet been completed. Trustee Shea noted that due to the sidewalk area being lower than the street, the sidewalks will swell, freeze, and crack in the wintertime. Mr. Tanner agreed, noting that he would recommend re-doing the roadway with proper under-drainage so that much of that water is reverted through the storm drainage system to provide the new sidewalks with a longer life span. The updated estimated project cost is \$107,250.00.

Clark Patterson Lee has completed the design for the reconstruction of West Fillmore Avenue. During the course of design, Mr. Tanner stated that he met with DPW Superintendant Matt Hoeh to evaluate the project. The biggest concern is drainage, which has been addressed within the design. Since the reconstruction is a complete dig up of the roadway, this is the time to evaluate the sewer and water infrastructure. He contacted Erie County who communicated that they do not wish to do any work on the sewers at this time. Mr. Tanner recommended that the Village ensure that Erie County is notified that they may not dig up the road for the next five years, adding that there are existing technologies for fixing sewers to enforce that. With regard to the water line, there is approximately 350-400 feet of roadway which only has a 4" line and does not meet 10 States Standards. This section is recommended to be replaced with an 8" water main. The increase in cost estimate from \$437,100 to \$543,000 is solely based on the new water line construction and design. Administrator Gazda noted that the cost for the water main would be split out to the Water Fund.

The estimated cost to replace the water main on Sycamore Street has also been increased. The new estimate is based on \$220 per foot and is reflective of the firm's recent experience with greatly rising material costs as well as a \$50,000 allowance for tunneling under some existing trees. The total estimated cost is now \$692,600. There were no additional engineering costs associated with the higher estimate. The water main replacement design for Sycamore Street is about 90% complete and can soon be

submitted to the Department of Health once a decision is made to move forward with the project. Administrator Gazda stated that the Village has applied to the New York State Environmental Facilities Corporation (NYSEFC) for a \$150,000 grant to help cover the cost of this project.

Mr. Tanner also discussed the damage that was done to the Southwest corner of the DPW garage when a concrete block accidentally fell into the wall. Clark Patterson Lee recommends a full replacement with all new block on both the South and West sides from the window jams in order to repair the integrity of the structure. Mr. Tanner estimates the cost for this project to be approximately \$50,000, although the insurance company estimated low at about \$22,000. Administrator Gazda stated that he spoke with the insurance adjuster who is aware that the insurance estimate is not based on prevailing wage rates. The insurance plan has a \$5,000 deductible; however the adjuster noted that once the Village has an estimate, the insurance will add 111% to that cost to reimburse the Village. In the end, the Village will receive 11% more than the actual cost of the project.

Motion by Trustee Shea to authorize the Village Administrator to go out to bid for the repair work needed on the Department of Public Works garage. Motion seconded by Trustee Byrnes and unanimously carried.

Mr. Tanner presented two different design options for new salt and cold storage buildings, one with a pitched roof and another with an oval shaped roof. There is minimal cost difference between the two designs, and although Mr. Tanner feels the oval shaped roof may be a little more structurally sound, both designs come with the same warranty. The buildings, with a combined footprint of 50' x 150', will have galvanized poles, a canvas top, and Jersey barrier supports all around. It is recommended to add a stone base with asphalt, or even compacted clay, in order to create a moisture barrier. This barrier is necessary to prevent water from seeping up that can cause damaging vapors near the stored equipment or cause salts to leak into the nearby environment, including Sinking Ponds. The estimated cost for the two buildings is \$270,000. The costs may be broken up and reduced by doing some of the work using DPW employees, however Administrator Gazda stated that for projects like this it is often better to stick with one experienced contractor to avoid sticky issues that can come later on, such as with warranties and other issues. Mr. Tanner's opinion is that an asphalt project could be split with good communication. Trustee McCabe expressed concern with the lacking security of the buildings and equipment, and Administrator Gazda noted that fencing could be installed for additional security.

Motion by Trustee Carr-Hoagland to authorize the Village Administrator to go out to bid for construction of the new salt and cold storage buildings on the DPW grounds. Motion seconded by Trustee Shea and unanimously carried.

- Motion by Trustee Scheer to approve the following budget transfers:

Amount	To Account	Department	Line Item	From Account	Department	Line Item
\$94.00	3120.420	Police	Maint Service/Contracts	3120.405	Police	K-9 Supplies
\$3,224.00	8020.410	Planning	Contractual	8140.420	Storm Sewers	Maint/Repairs

Motion seconded by Trustee Shea and unanimously carried.

- Trustee McCabe:

1. Commented that he felt that the discussion during the review of the Rotary Club's Temporary Use Permit was a little contemptuous at times. He stated that he is learning that in government there is a lot of "smoke and mirrors" and things that do not make sense to him since he comes from the other side of things. He added that he feels everyone needs to work better together as a community.
2. Made a formal request for the Village Board to review the application process for Temporary Use and Special Permits and the conditions for when they are required, making distinctions between requirements such as loud music vs. amplified music. He noted that he asked five different people in the Village what requires a Special Use Permit and he got five different answers, showing that the Village Board needs to do a better job with the permit process. He stated that a thorough review will help Board members to better understand the permits and ensure that the necessary information is made available to the public. Mayor Kasprzak commented that it is imperative for the Zoning Code to be re-done as soon as possible so that the permit process can also then be re-done. Trustee Mercurio agreed with Trustee McCabe and stated that the Village needs to provide better direction. Administrator Gazda clarified that a Special Use Permit is for the property, which tells what they can and cannot do, while a Temporary Use Permit is more for events and can be used in conjunction at times to allow temporary variations from the Special Permit restrictions. He stated that he will meet with the Clerk Treasurer and put some documentation together for the Board to help explain the current requirements.

- Trustee Carr-Hoagland:

1. Stated that she attended last week's Town Hall meeting and got a thorough understanding of the Town's proposed use of the old fire hall. She commented that it looks very encouraging and she looks forward to completing negotiations.

- Trustee Scheer:

1. Agreed with Trustee McCabe's comments regarding the permit process and added that the Village Board tends to forget that these are charitable organizations holding events as fund raisers with benefits to the community.
2. Commented that the Village is very lucky to have groups like the Rotary who help make the community a better place.
3. Noted that he has attended the RAAP party in the past and feels that the Rotary did a good job; the event was well organized and not really a booze fest that gets out of hand.
4. Stated that he was approached by several residents on Church Street claiming that since the porta potty was padlocked during the Backyard Bash, people were knocking on the doors of residential homes asking to use a restroom. Administrator Gazda confirmed that he will look into the issue.

- Trustee Mercurio:
 1. The Hamlin Park Committee held an access meeting with the fire and police on July 11, 2016.
 2. The Hamlin Park Committee will be meeting again on Thursday, July 21, 2016 from 4:00 pm – 6:45 pm with some of the primary user groups of Hamlin Park, including Little Loop Football, East Aurora Wesleyan Church, Aurora Players, East Aurora High School, and the Boys and Girls Club. This meeting will be to discuss the needs and expectations of Hamlin Park and is open to the public.

- Trustee Byrnes:
 1. Attended the daytime meeting with representatives of the Rotary Club on Thursday, July 14, 2016. He felt that it was a very good meeting and stated that it was good to meet with members of the Rotary who do a fantastic job. Everyone at the meeting made efforts to ensure that the Reunion Party goes forward and agreed that concerns regarding the rink can be evaluated again next year.
 2. Reminded the applicants to please not wait until the last minute, but to submit their applications within the dates required on the application. He noted that if the Village Board has ample time to address the concerns, perhaps the request will not be turned down next year.

- Mayor Kasprzak:
 1. Informed the Board and public that the Orchard Park Sun, a local newspaper, is no longer in business.

UNFINISHED BUSINESS

- Motion by Trustee Mercurio to schedule a public hearing for Monday, August 1, 2016 at 7 pm regarding the Proposed Local Law #2 of 2016 for the Cold War Veterans Exemption. Motion seconded by Trustee Shea and unanimously carried.

- Motion by Trustee Mercurio to deny the request from the Town of Aurora to use an herbicide in Hamlin Park for weed control. Motion seconded by Trustee Carr-Hoagland and unanimously carried.

NEW BUSINESS

- Motion by Trustee Byrnes to approve the Temporary Use Permit for the East Aurora Chamber of Commerce as follows:

VILLAGE OF EAST AURORA TEMPORARY USE PERMIT

Pursuant to Chapter 285-52, of the Code of the Village of East Aurora.

Person in Charge: Gary Grote
Greater East Aurora Chamber of Commerce
652 Main Street
East Aurora, NY 14052

(Non-Transferable)

Valid only for days of Saturday, September 10, 2016

Valid only for hours of 7:00 am – 6:00 pm

For the purpose of Taste of East Aurora

As per Village Board Approval on July 18, 2016

THIS PERMIT MUST BE DISPLAYED AT PLACE OF ACTIVITY

Special Conditions:

Restoration: Complete clean up and maintenance of the entire area must immediately follow each activity.

Motion seconded by Trustee Shea and unanimously carried.

- Motion by Trustee Mercurio to schedule two public hearings for Monday, August 1, 2016 at 7 pm regarding:
 1. Application from Akash and Sarah Desai of 44 Elmwood Avenue to keep six chickens, and
 2. Application from Nancy Hall of 688 Persons Street to keep three dogs in her home.Motion seconded by Trustee Scheer and unanimously carried.
- Motion by Trustee Shea to schedule a public hearing for Monday, August 1, 2016 at 7 pm regarding the Special Permit Application received from Samuel Marabella to do business as Yoshi Sushi Bar and Eatery at 33 Elm Street. Motion seconded by Trustee Carr-Hoagland and unanimously carried.
- Motion by Trustee Shea to refer the application as submitted by Stan and Sherrill Kujawski for demolition of a residence at 155 Blake Hill Road to the Historic Preservation Commission for review. Motion seconded by Trustee Mercurio and unanimously carried.
- Motion by Trustee Shea to refer the development plan application for a PetSmart location at 123 Grey Street as submitted by Benderson Development Company, LLC to the Planning Commission for review. Motion seconded by Trustee Byrnes and unanimously carried.
- Motion by Trustee Shea to approve the request from Christ the King Seminary to allow the Downing and Caputi families to tap into their 8" water line so that water may be supplied to the new residences on Knox Road. Motion seconded by Trustee McCabe and unanimously carried.

- Motion by Trustee Byrnes to approve the request from Immanuel Lutheran Church to designate ten particular spaces for Immanuel Lutheran Church parking only. Motion seconded by Trustee Mercurio and unanimously carried.

SPEAKERS & COMMUNICATIONS (II)

- Allen Ott, 1360 Grover Road:

Mr. Ott stated that the rink informed the Rotary Club that they really did not need a permit for their event. Due to the information they received from the rink, he and two other members of the Rotary Club came into the Village on July 14, 2016 in order to communicate to the Village that although their permit had been denied, they still planned to hold their event at the Healthy Zone Rink. After discussion with the Village officials, they felt they needed to return the venue for the annual party to Fireman's Field. He added that they were unaware that a Temporary Use Permit needed to be sought for the event until June 13, 2016 when he came into the office to obtain a banner permit for the event. At this point, he was told by a clerk that he would also need a Temporary Use Permit. When he came back into the Clerk's Office on June 21, 2016 to check on the status of the permit, he was told at that time that he was not allowed to move forward with obtaining the banner permit until the Temporary Use Permit was approved. Mr. Ott also stated that the Rotary Club sent a letter to the Village on July 9th, 2016.

- Betsy Schwartz-Graves, 258 Olean Street:

Ms. Schwartz-Graves requested the Village Board to re-address the issue and take a new vote to allow the Temporary Use Permit for the Rotary Club to be approved so the party might be held at the Healthy Zone Rink. Trustee Byrnes commented that at the daytime meeting on July 14, 2016 with the Rotary members, that there was a great deal of positive effort from the Village Officials and unified attempts to work together to ensure that the event moved forward. It was noted that Village Administrator Bryan Gazda helped the Rotary with the paperwork for them to obtain their liquor license, hand-delivered it, and offered to further assist if at all needed. Administrator Gazda also took action to expedite the banner permit process. Mayor Kasprzak noted that he worked with the Fire Department to help get the Rotary's event to still be able to take place at Fireman's Field.

- Will McDonald, Aurora Ice Association (AIA) Board Member, 681 Main Street:

Stated that the ice rink has big loans and cannot operate just as an ice rink or else they will go broke and have to close the doors, leaving the rink as a vacant piece of property. He stated that they need to have other events, and that community oriented events and fund raisers are perfect. He felt that Music Fest was a success. Mr. McDonald explained that they are a business, and need to operate as a business. He noted that if the Roycroft cannot be told that they cannot hold a wedding, they expect the same as they have to operate as a business. Trustee Mercurio commented that his vote was with respect for the fact that the Police Department advised that the event would be safer being held at Fireman's Field.

- Heather Nemec, 140 Jewett Holmwood Road:

Spoke on behalf of her clients at 155 Blake Hill Road with regard to their application for demolition and her clients' difficulties surrounding the plans to remodel the home.

- Kateri Ewing, 148 Knox Road:

Commented that she feels there is a need to provide more comprehensive guidelines to businesses and community organizations with regard to the permit process. She feels it needs to be more clearly stated what the permits are for and what is allowed or not allowed.

Motion by Trustee Byrnes to go into executive session at 9:00 pm to discuss real property negotiations for 575 Oakwood Avenue. Seconded by Trustee Carr-Hoagland and unanimously carried.

Motion by Trustee Byrnes to come out of executive session at 9:37 pm. Seconded by Trustee Mercurio and unanimously carried.

Motion by Trustee Carr-Hoagland to authorize Mayor Kasprzak to sign the Contract for Purchase with the Town of Aurora regarding sale of the property located on Oakwood Avenue, subject to letter from Attorney Robert Pierce dated July 18, 2016 with amendments to said contract. Motion seconded by Trustee Mercurio and unanimously carried.

ADJOURNMENT

Motion was made by Trustee Byrnes to adjourn the meeting at 9:38 pm. Motion seconded by Trustee Mercurio and unanimously carried.

Respectfully submitted,

Catherine E. Gazda
Deputy Clerk Treasurer