

**VILLAGE OF HARRIMAN, NEW YORK
VILLAGE BOARD MEETING
May 27, 2014**

7:00 P.M. – REGULAR MEETING

ROLL CALL:

Mayor Stephen Welle, Deputy Mayor Ed Shuart, Jr., Trustee G. Bruce Chichester, Village Treasurer Marie Coimbra, Police Chief, Dan Henderson. Absent and excused Trustee Lawrence Mosca, Trustee Sacher – expected to arrive.

The Mayor asked everyone to stand for the Pledge of Allegiance.

APPROVAL OF MINUTES:

We will hold off on the approval of the minutes till Trustee Sacher arrives.

INFORMATIONAL ITEMS:

- On June 4, 2014 from 11:00 a.m. to 12:00 p.m. - Rich Mayfield, Director of the Orange County Community Development will be in the Village Hall. He will be available to discuss community development block grants as they apply to village residents on limited income.
- Mayor said that we have been notified from the Orange County Department of Health that they will again be larviciding catch basins this year, in an effort to do away with as many mosquitos as possible for the West Nile Virus. They will be here sometime from the second week of July to the fourth week of July.
- Mayor Welle said we received a Certificate from Monroe Clean Sweep for the Village's participation; the event was a big success.
- Orange & Rockland sent out a reminder that if you smell natural gas inside the dwelling remove yourself as quickly as possible and notify 911 or Orange & Rockland immediately.
- Garbage collection for this week on the Monroe side was today and Friday and Recycles will be on Thursday. On the Woodbury side recycles will also be on Thursday and garbage collection will be on Saturday.
- Yesterday was the annual Village Memorial Service, thank you all who participated. I especially want to thank the Harriman Engine Company, Harriman DPW for the great job they did on the monument area and the Harriman Police for ensuring that roads were closed were they needed to be to keep everyone safe.
- Two notices from the Village of Woodbury Planning Board, they are notices of intent to become the lead agency. The first one is on Cabelas Wholesale Incorporation the date of action is May 7, 2014 and the second one is for Cesar Entertainment date of action May 14, 2014. Village of Harriman is listed as an involved agency on both.
- Upcoming meeting dates:
 - Zoning Board of Appeals Meeting – June 4, 2014
 - Village Board Meeting – June 10, 2014
 - Planning Board Meeting – June 16, 2014
- Mayor Welle stated that we have received one letter of interest for an alternate member on the Planning Board. We do have other openings available on the Planning Board and Zoning Board of Appeals. Anyone interested should submit a letter of intent to the Village Clerk's Office.
- One Addition to the agenda item 12B, Encumbrance of funds.

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BUDGET TRANSFERS:

Mayor Welle stated we received a request from the Village Treasurer in a memo dated May 22, 2014.

MOTION was made by Trustee Chichester to approve the budget transfer as outlined in a memo dated May 22, 2014 from the Treasurer.

SECOND was made by Trustee Shuart.

AYE: Trustee Chichester **NAY:** -0-
Trustee Shuart
Mayor Welle

DPW SUPT. REQUEST – TRAINING:

Mayor Welle stated we received a request for training from DPW Supt. John Karl for authorization to send Jurgen Breitfeld and Chris Wendt to a lab course. It is \$75.00 per attendee and will be coming out of line F8310.400.

MOTION was made by Trustee Chichester makes motion to authorize training as outlined by the Mayor.

SECOND was made by Trustee Shuart.

AYE: Trustee Chichester **NAY:** -0-
Trustee Shuart
Mayor Welle

ANNUAL DRINKING WATER:

The Mayor states that the Annual Drinking Water Contest will be held in the Thomas Bull Park in Montgomery on a Saturday, June 7, 2014. The last couple of years the Village has decided not to attend this due to not feeling it is in the best interest of the Village to spend money on paying someone overtime for them to bring a jug of water to Montgomery.

DENIED DUE TO LACK OF MOTION

POLICE CHIEF – PROBATION:

Mayor Welle states that Dan Henderson was hired with a six month probation period. Effective May 1, 2014 his probation period is completed and in order to satisfy Orange County Department of Human Resources we just need to formalize, to make it official.

MOTION was made by Trustee Shuart as outlined by the Mayor.

SECOND was made by Trustee Chichester.

The board thanked Chief Henderson.

AYE: Trustee Chichester **NAY:** -0-
Trustee Shuart
Mayor Welle

Ben Ostrer of Ostrer & Associates is now present.

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LIBOLT & SONS REQUEST ZONING:

The Mayor stated that Libolt and Sons regarding the property on 44 North Main Street are here and would like to make a presentation. Steve Libolt, from Libolt and Sons. My business does about 10 million a year and it employees about 15 people and we work in NY, NJ and Connecticut, occasionally Massachusetts building all sorts of residential construction. We came across a sight on 44 North Main Street, presently owned by Mr. Kabinoff and it is zoned B2. I stopped in the Village Hall one day to see if the Village might have interest in allowing a residential use of that location. The Mayor said I should come to the Village Board and give a brief presentation on what I propose. Mr. Libolt then presented some different diagrams of some of the ideas they have for the property. He stated that they are a 1 or 2 bedroom apartments, sometimes 3 bedrooms. They have no income restriction; all apartments have a fireplace in them, with a small deck in the back. There is adequate parking. The site has a site plan that is fully developed for a hotel of type a single apartment building will fit inside that plan. The only thing that we would want to do is remove the older home on the property, to make something there for the resident's storage. Mr. Libolt feels that the location is great. Under the B2 we could do some commercial business and some accessory residential. Given the economic environment the residential use has been stronger than commercial. I don't know how it would affect the local business if we built 6,000 square feet of retail in there right now. We are looking between 16 and 20 units this would fit in the footprint of the previously submitted site plan. Mr. Libolt states that he would just like to know the feelings of the board if they would be interested. Trustee Chichester asks you use the term Luxury Apartment, is the price affordable to Village Residents? Mr. Libolt states that a two bedroom apartment will probably be between \$1,400 and \$1,600 depending on square footage. Mr. Libolt states that the price will also depend on the Assessor. If you want to limit the rents you have to bring some type of relief on the tax side or some type of construction substitute. Trustee Chichester states that with your proposal the Village will not get any tax revenue from it, with a business we will get some. Mr. Libolt states that what the advantage is that you bring people who will utilize the shops in walking distance. Trustee Chichester states with the price you are suggesting are they going to go to finer places outside the Village. Mayor Welle thanks Mr. Libolt. Mayor Welle states that he would like the rest of the board to get information and for them to take a look at the zone to see how this would affect the rest of the properties in the Village. Mr. Libolt states that he understands and if the board comes back with 2nd residential, I can come back with something else, this is an easy path to redevelop that parcel and make it productive. The Mayor states it will be on the Agenda for the next meeting so that I will be sure that the board members will have a discussion on it. Mr. Libolt leaves the visual display for absent board members to look at.

PARK REQUEST – Corrillo - June 22, 2014

Mayor Welle stated Corrillo is requesting use of the pavilion at Mary Harriman Park on June 22, 2014 from 10 a.m. to 3:00 p.m.

MOTION was made by Trustee Shuart as outlined by the Mayor.

SECOND was made by Trustee Chichester.

AYE: Trustee Chichester
Trustee Shuart
Mayor Welle

NAY: -0-

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PARK REQUEST – Townsend, July 27, 2014

Mayor Welle stated Townsend is requesting use of the pavilion at Mary Harriman Park on July 27, 2014 from 12:00 p.m. to 4:00 p.m.

MOTION was made by Trustee Shuart as outlined by the Mayor
SECOND was made by Trustee Chichester.

AYE: Trustee Chichester **NAY:** -0-
Trustee Shuart
Mayor Welle

DPW REQUEST – Generator Maintenance:

Mayor Welle states that we have a request from the DPW Super for Generator Maintenance. The cost is attached from Peak Power of Middletown, annual maintenance on the generators in the amount of \$3,662.75 it is a budgeted item.

MOTION was made by Trustee Shuart as outlined by the Mayor.
SECOND was made by Trustee Chichester.

AYE: Trustee Chichester **NAY:** -0-
Trustee Shuart
Mayor Welle

DPW REQUEST – OGS BIDDING ON ROCK SALT:

Mayor states that the DPW Super is looking for authorization to include Office of General Services for rock salt for the upcoming year.

MOTION was made by Trustee Chichester as outlined by the Mayor.
SECOND was made by Trustee Shuart.

AYE: Trustee Chichester **NAY:** -0-
Trustee Shuart
Mayor Welle

WATER REQUEST - CABELAS:

Mayor states that we have Cabelas Wholesale here to speak on behalf on their request.

Steve Esposito from Esposito and Associates we represent Cabelas it is a project that is in front of the Village of Woodbury Planning, it is for a Cabelas store that is about 85,000 square feet. It is the first Cabelas in the state of New York. It is a commercial center, so there are two small half parcels that are 4,700 square feet. Both of those parcels could be restaurants. This is made up of two parcels one that was originally the diner that the Village did have some history with. Cabelas is contracted to purchase the hotel site in the back and moving forward that is where Cabelas would be built. We are here tonight to see if the Village is interested in providing water service to the site. At the corner of Locey and Route 17M is a hydrant with a 12 inch main, we did do some test when it was the JJ Woodbury site and we know that there is adequate water pressure to handle even this proposed application. The old application

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WATER REQUEST – CABELAS(CONTINUED):

was about 6,600 gallons a day. We estimate from state standards that we are going to use about 14,000 gallons per day. We would be double what the original application was. Mayor Welle states that when the board entered an agreement with J&J Woodbury I believe that was 10,000 a day, for the entire parcel. The Mayor states the entire board will need to digest this and the information will have to be given to the other members then they we will have to decide if we are going to supply water to the whole entire site in addition to the water that was allocated to JJ Woodbury. I will get the information to the other board members and we will have discussion at the June 10, 2014 meeting. Steve Esposito states that there is one other thing I would like to highlight attached to our application is a site plan that shows how the water would be tapped in and part of our application to the Village of Woodbury is that we will be consolidate the lots so ultimately you will only be servicing one parcel. Trustee Chichester asks have you projected the heaviest usage? Mr. Esposito replies that those numbers are the heaviest with assuming two restaurants. Mayor Welle states that the existing well at the hotel would have to be capped with our standards if we provided water. Mayor Welle states that if the board was to move forward any cost that the Village would incur with consultants would be at the cost of Cabelas. Steve Esposito agreed. Mayor Welle stated that if there was any other information forward it to him and he will make sure all board members receive.

EMCUMBERANCE OF FUNDS:

In the current budget 2013-2014 it was budgeted for a generator at the Police Station and a generator at Well HBP1 due to issues related to getting easements for a gas service, we have not been able to move forward but in the hopes of moving forward requesting that the board authorize encumbering \$15,000.00 A.3120.200 for the police F.8340.200 \$20,000 at HBP1.

MOTION was made by Trustee Chichester as outlined by the Mayor.

SECOND was made by Trustee Shuart.

AYE: Trustee Chichester
Trustee Shuart
Mayor Welle

NAY: -0-

Trustee Sacher is now present.

ATTORNEY REPORT:

Occupations Inc. – Nothing

Gas Easement at TJ Maxx building – Nothing

Mayor Welle states that there are a couple of issues that I will need you for in Executive Session.

Ben Ostrer says that he does want to say something about the minutes, he states that Trustee Mosca says that he was unaware in the recent communication that I had with the District Attorney's Office. First I believe it was discussed. In my bill in October and December I made specific reference which was audited and signed by the Trustees. In October I billed for a letter to Assistant District Attorney Reyes, re: Treasurer, in December I billed for a call with District Attorney Reyes, on raises and a letter dictated. I had a bill for a conference on budget issue and a call with ADA Karen Edelman Reyes. It was clearly there aside from the conversation we had that there was at least ongoing information request, it was referred to me. I responded, the village was copied through the Mayor, on the correspondence, so there

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was nothing. It there was any issue or questions about the correspondence or the calls it is reflected on my bills. This is why I always include a narrative on my bills. Each item referenced the subject because the Treasurer has to divide between the funds. The interaction was no secret, it was in the bills. Trustee Sacher states that she read that and that is why I did not sign that bill, because I did not know what that was about. Attorney Ostrer states all you have to do is ask. Trustee Sacher states that you were not here and you had not been here for the next couple of meetings, it was Marissa who was here and I didn't ask her because I didn't feel she knew. Trustee Sacher asks so the Mayor should have given us that information? Trustee Sacher states we did not know that entire conversation existed at all between you and the DA. Attorney Ostrer states most respectfully if you didn't sign the bill because you saw something about a communication with the ADA than you could call me, you can ask at a meeting. Trustee Sacher states that I was waiting to ask you, when you were here but you didn't come for a couple of weeks, but I knew what that was about, but I felt as a board member I should have been told by either the Mayor or the Attorney. Attorney Ostrer states I have been the Village Attorney for 20 years, I was present at the October 22nd meeting. Trustee Sacher states I don't remember when the bills were done, if you look back at the bill I did not sign it. Attorney Ostrer states there are two bills one for October and December, maybe you didn't sign either, I wouldn't know if you sign them. Attorney Ostrer confirms that we audit bills at the first meeting, which would have been December 10th, Marissa was at that meeting. Attorney tries to clarify what meetings he was at. Trustee Sacher states she is just going to say her peace, I just think that had the DA had a reason to look into something, that Mayor should have told the board members about it. Attorney Ostrer states that the DA looks into a lot of things, I received a contact from ADA who asked for something, my expectation was that it was someone from the board who contacted the DA, but I don't know. Trustee Sacher states I really don't know. Attorney Ostrer states I don't know who contact, I could find out but it really is not relevant to me. They asked about it, I got information, I transmitted it as I would do for any municipality, there are plenty of things that I do and they are all reflected on my bill. A month went by I received a call for further explanation which I provided and it went nowhere. So whatever the inquiry was I haven't heard anything about it, since the end of December, I have been working very closely with three special prosecutors offices who handle the cases since my partner became the DA, so if it was an ongoing investigation it might have been assigned to someone else, but whatever the inquiry was Ms. Reyes was satisfied. Trustee Sacher states that is fine, but my whole point is that I was not aware of any of this. Attorney Ostrer states well what did it mean to you when you read my bill call with ADA Karen Aldman Reyes regarding salary increases, I know that was code but it was code for I spoke with to District Attorney regarding salary increases in the Village of Harriman. Trustee Sacher states well I am sorry, I guess the Mayor should have informed me, I am a board member. Attorney Ostrer states I asked him for information and he gave me the information, I sent it on to the district attorneys, for what they were asking, maybe the Mayor should have told you or shouldn't told you, but there was definitely enough in my bill that if somebody had a question, you could have ask me and I don't pull punches when people call and ask me something. I work for the board, I work for the Village and I will give you an answer, if it says I wrote a letter. Trustee Sacher states I didn't know you wrote a letter. Attorney Ostrer says it says I billed you for a half an hour for a letter to ADA Reyes regarding the Treasurer. Trustee Sacher says we are reading all of these things we don't know what this is all about. Attorney Ostrer states so if you have a question. Trustee Sacher states but you weren't here, that is what I keep trying to tell you. Attorney Ostrer states I am not in China, you pick up the phone and call me. Trustee Sacher than states that she should have called but she kept waiting for you to come to the board but Marissa kept coming. Attorney Ostrer states I do come to. Trustee Sacher states there was a period that you were not here for quite a bit. I just feel like I was kept in the dark. Attorney Ostrer states that no one was kept in the dark if it was the dark it wouldn't be on my bill, it is not hidden. Attorney Ostrer states it is his practice to always to state exactly what was done on the bill for any client I service. Attorney Ostrer I would like to say it in open session not executive session, there was no need to discuss this matter in executive session before or I would have, I just took information

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and sent it. Attorney Ostrer continues to read off items on his bill. Trustee Sacher states that my beef is not with you. Attorney Ostrer states I really don't think you should have a beef with anyone. I spoke to Trustee Mosca and I am cc the board now, instead of just the Mayor, because there is tension that has arisen. We do have frequent executive session if I am needed I will be here. Trustee Sacher states the tension arose from something like this, this is not about you. Attorney Ostrer but there is no something. Trustee Sacher asks did the DA Office asks for information? Attorney Ostrer states they asked me for information. Trustee Sacher asks you had to ask the Mayor for information, correct? Attorney Ostrer states that I had to ask the Mayor for information, because he is the guy I can get the information from. Trustee Sacher states well that is where my beef is, I never heard anything from the Mayor, I heard it from someone else who is not even on the board. Attorney Ostrer states I speak to the Mayor about whether we should fix a curb box. Trustee Sacher again states the Mayor should have told me, that the DA was looking into something that is my beef that is all I have to say. Attorney Ostrer states you are welcome to whatever your say is but it was hardly anything, my total time on the job was 1.9 hours, over a 2 month period. Trustee states I should have known it involves me I sit on this board. Attorney Ostrer states that you should look more carefully at the bills, because there is a lot of other stuff on there that does not have to do with the communication with the DA on one issue. Trustee Sacher states those other things I am told, but that I was not told about in detail, was not at all. Attorney Ostrer states that if there is something that occurs to you in your judgment rises to level of some importance than you can raise the issue in October. I would be happy to provide you with letters. That is not my way of operating, sometimes my bills have even been foiled, the public can even see. I write the narratives so people can see it.

PUBLIC COMMENT:

Michael Hagopian, 160 Route 17M, Harriman NY

Regarding the water request where the hotel is, I believe there was a capital contribution from the strip mall of \$18,000. They sold that property for a profit of 1 million because of the water. I hope this time we will look at this and not just give it away for \$18,000 and I believe it is on a low pressure site so I hope we will take a hard look at that. Somebody is making a lot of money out there and we are getting nothing. Attorney Ostrer states in terms it was JJ Newbury we agreed this is a different user that is why they are back. Mr. Hagopian states that is because JJ Newbury profited that piece because of the water. Attorney Ostrer states I don't know if it was only because of the water but when the person buying the property the agreement didn't run with the land, it is not an easement with the land. It is a contract with the owner. Trustee Sacher states we don't have to give anyone water. Mr. Hagopian states but we proposed to give water with that parcel. Attorney Ostrer we proposed to give water to that parcel for that use. We have an agreement with BMW to provide them with water if BMW closes and some other user comes in, they have to come in. Mr. Hagopian states that what I was hearing tonight it sounded like the Mayor was going to add on to that 10,000 to 14,000. Mayor Welle states that I did not propose adding anything on. Attorney Ostrer states that what the Mayor said was that he had to contact the two other Trustees first. Mr. Hagopian states that the Mayor said that he could be adding on the difference to 14,000. The Mayor said I didn't say it could be done, I was stating what the facts were. Attorney Ostrer states that we made an allocation, in terms of what are supply is, we have to do a calculus before we can service an out of village user and we made a calculus and that we could supply and give a will serve letter that if you bill Panera Restaurant we are going to have 2000 gallons a day for or the

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Outback Restaurant we gave the Outback Restaurant a will serve letter, if the Outback restaurant was torn down and then decided to put a ten story motel there they would have to come back to us for a new allocation. What I think the Mayor was trying to convey is that we have an allocation available that JJ Newbury is not going to use, you are asking for more it would require the Village Board approval but at least a certain amount is already allocated. If people come for Nepera, you know how much water Nepera use to use, 1 in every 7 gallons we sold, so if somebody else came to that site could we supply them whether low pressure or high pressure it just needs to be evaluated, but you make a good point that there is a value to having it. The outside the Village rate payers help support cash flow for the whole system. Getting a reliable user there is a value to that too, we may have a casino coming to us for water. Mr. Hagopian states that giving it away for \$18,000, I think that is kind of short. Attorney Ostrer than states that there does have to be some kind of logic, there is a certain amount of debt service that a property accessed at X would pay. So we do look at what the assessed valuation of the property was, what debt service would have been, I believe the look back is about ten years. It can't just be we are going to charge Hagopian more because we don't like him and charge Welle less because we like him. At least if you come and there is some logic, what would the debt service had been on the property, what was the assessed value of the land, that vacant land should have to pay what you had to pay for at least ten years, the way we are not discriminate one way. Should it be higher should we go back 15 years, if there is a run on the water than that is something that is worthy for discussion. We are not bending over to give it to them they are the consumer who is going to pay the out village rate for it, that will help lower impact on the in village resident who is the person we want to help, if we have a consumer and we can get them to pay the premium rate opposed to the lower it will help the in village resident. But what you are saying is right if it enhancing a tremendous amount of value to the property than it be look at differently. Trustee Sacher states that if she remembers correctly years ago, I use to sit with the Mayor when a bunch of different water people came in and somebody actually questioned us where do you get this number from and we had to go to Ben and he had to come up with a formula so that we just didn't pick it out of a hat. Mr. Hagopian states I just thought that \$18,000 wasn't enough and if we got other opportunity maybe we could reevaluate the whole thing. Trustee Sacher maybe we need to reevaluate the whole formula.

APPROVAL OF MINUTES:

Mayor Welle asked if there were any changes or additions to the minutes of 5/13/2014 Village Board Meeting. There being none, the minutes were accepted as written.

MOTION was made by Trustee Chichester to accept the 5/13/2014 minutes.

SECOND was made by Trustee Sacher

AYE: Trustee Chichester

Trustee Sacher

Mayor Welle

NAY: -0-

ABSTAINED: Trustee Shuart

MOTION was made by Trustee Shuart to enter into Executive Session for litigation issue, police personnel, and attorney client privilege with the attorney, Chief Henderson and Denise Williamson from Sedore.

SECOND was made by Trustee Chichester.

ALL IN FAVOR.

At this time the Village Treasurer was excused from the meeting. The following was given by Mayor Welle:

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Executive Session was held with Chief Henderson and Ben Ostrer.

Trustee Sacher left the meeting at 8:05 p.m.

The meeting with Denise Williamson of Sedore & Company was postponed.

MOTION was made by Trustee Shuart to end Executive Session and return to the regular meeting.

SECOND was made by Trustee Chichester.

ALL IN FAVOR

Mayor Welle reported that he had just received a message from Rich Lenahan of Harriman Engine Company #1 that their carnival is next week and they need water. He has spoken to John Karl who advised him to go to Village Board for approval. They need water from 6/2/14 to 6/8/14 in the Home Depot parking lot.

MOTION was made by Trustee Shuart to approve the request from Harriman Engine Company #1.

SECOND was made by Trustee Chichester.

ALL IN FAVOR

MOTION was made by Trustee Chichester to approve the transfer of Police Officer John Levison from the Town of Crawford Police Department effective 6/12/14 with 6 months probation. He will start at the 3rd year pay scale in accordance with the PBA contract and will be waiving health insurance.

SECOND was made by Trustee Shuart.

ALL IN FAVOR

MOTION was made by Trustee Shuart to approve Frederick Jimenez as a Part Time Police officer effective 6/12/14 at the rate of \$24.83 an hour in accordance with the PBA contract.

SECOND was made by Trustee Chichester.

ALL IN FAVOR

A **MOTION** was made by Trustee Shuart and **SECONDED** by Trustee Chichester to adjourn the meeting at 8:40 pm.

ALL IN FAVOR.

Respectfully submitted by _____

Marie Coimbra, Village Treasurer