

PUBLIC HEARING AND REGULAR MEETING  
December 17, 2014

Board Members Present: Mayor David Hazelton  
Trustee J. Dale Abram  
Trustee Gary Planty  
Trustee Dale VanVlack – arrived at 7:20 pm  
Trustee Bryan Woleben

Present: Sonia Luszczak, Village Clerk/Treasurer  
Robert Bringley, President, Marathon Engineering  
Tom Allen, Highway Superintendent  
Joe Majkowski, Electric Lineman  
Alan Gustafson, Code Enforcement Office  
Ryan Hazelton, Wastewater Treatment Plant  
Samuel Drayo Jr, Village Attorney

Mayor Hazelton opened the Public Hearing Meeting at 6:30 p.m., with the pledge to the flag.

The purpose of the Public Hearing was scheduled to approve a Special Use Permit and site plan for Marathon Engineering to establish a Dollar General Retail Store at 54 West Main Street.

The Mayor noted that with no public present did anyone have any questions for Robert Bringley, President of Marathon Engineering regarding the project of Dollar General Retail Store at 54 West Main Street.

The following questions were raised for Robert Bringley –

Was the building itself going to be anything other than Dollar General? Mr. Bringley stated that the building was only going to be a Dollar General Store but that the developer was working on getting another customer to build on the lot. The public was asking what products would be sold in the store and Mr. Bringley stated that he would try to find out for us.

The Mayor then went over the questions that the Planning Board sent to the developer after their meeting along with the responses from them.

1. That the County of Chautauqua Planning Board has responded favorably to the Special Use Permit request, their recommendation of placing the parking in the rear of the building shall not be required but shall be at the sole option of DVL1, LLC – Dollar General. **Response: No response required. Applicant will leave site layout as proposed with parking on front (West Main Street side) of the building.**

2. A. Any exterior sign shall be in compliance with all applicable zoning laws – design and installation shall be coordinated with the Village of Brocton Code Enforcement Officer.

Response: The applicant acknowledges the requirement to coordinate the design and installation of exterior signage with the Village of Brocton Code Enforcement Officer.

B. Any exterior lighting shall NOT be a nuisance to nearby property owners and residents.

Response: Exterior lighting of the building and parking lot are full cut off fixtures. Therefore adverse impacts to nearby property owners and residents would not be expected.

3. Any sign (if lighted) shall not be an impairment to the vision on drivers on Main Street.

Response: The applicant acknowledges the requirement that any sign (if lighted) shall not be an impairment to the vision on drivers on Main St. As noted above, the design and installation of exterior signage with the Village of Brocton Code Enforcement Officer.

4. Any sign shall not have lighting that is a nuisance to nearby property owners and residents. LED lighting is recommended.

Response: The applicant acknowledges the requirement that any sign shall not have lighting that is a nuisance to nearby property owners and residents. As noted above, the design and installation of exterior signage with the Village of Brocton Code Enforcement Officer.

5. The developer should make the number of trees evenly spaced on the Main Street side as well as the Pearl Street side.

Response: The applicant agrees to place the relocated street trees along Main Street evenly. Currently, no new street trees are proposed along the Pearl Street side of the site.

6. The Village Board shall clarify why the tree removal on the Pearl Street side.

Response: The aforementioned tree on Pearl Street is currently proposed to be removed because its location is in conflict with the proposed relocation of the onsite storm sewer. Due to the presence of other utilities along Pearl St., relocating this tree along the same frontage does not appear to be feasible. Therefore the tree is proposed to be removed. If the Village takes exception to this, the Applicant is willing to attempt to relocate this tree or replace with new (similar size and specie) at the direction of the Village.

7. Coordinate all tree placement with the Village Electric Department.

**Response: The applicant agrees to coordinate all tree placement with the Village Electric Department.**

The Mayor stated that he spoke with Joe Majkowski as he was concerned to the timing in getting the transformer ordered. The lead time was 12 to 14 weeks from the time of order. Mr. Bringley stated that he would do what he could to get the information to us. The building will be 9100 sq. ft. with a flat roof. There was a question as to the load bearing on the roof. Alan Gustafson noted that this would need to meet the building code.

Trustee J. Dale Abram stated that he has received nothing but positive comments regarding the Dollar General coming into the Village. We have not had any new construction since the building of Country Fair back in the 70's.

With no further comments the public hearing was closed at 6: 55 p.m...

Mayor Hazelton opened the regular meeting with the pledge to the flag at 7:00 p.m.

The Mayor asked that we move Resolution 113-14 to get approval from the Board.

## RESOLUTION 113-14

### APPROVAL FOR SPECIAL USE PERMIT/SITE PLAN FOR DOLLAR GENERAL RETAIL STORE

WHEREAS a public hearing was duly called and held before this Board of Trustees of the Village of Brocton at 6:30 PM on this 17<sup>th</sup> day of December 2014 to consider a special use permit and site plan approval as required by law for DVL1, LLC to construct a Dollar General store at 54 West Main Street, Brocton, N.Y., and

WHEREAS this Board has reviewed the plans presented by Marathon Engineering of Rochester, N.Y. and also the short form Environmental Assessment and also the letter from the Chautauqua Department of Planning dated December 2, 2014, and

WHEREAS the Planning Board of the Village of Brocton has reviewed the plans at its meeting held on December 10, 2014 and made recommendations to this Board at its meeting held on December 10, 2014, now therefore

BE IT RESOLVED that this Board as lead agency hereby determines that the proposed Dollar General Store will not have any significant adverse impact on the environment, and be it

FURTHER RESOLVED that this Board hereby grants a special use permit for the Dollar General Store and also approves the site plan for the store all as required by the Brocton Village Zoning Law, subject compliance with the same recommendations of the Brocton Planning Board, to wit:

1. Parking in the rear of the building is not required because of the lay out and use of the property for a Dollar General Store would be impractical if not impossible to have parking in the rear.
2. Any exterior sign shall be in compliance with the Brocton Zoning Code and design and installation be coordinated with Village Code Enforcement Officer.
3. Any exterior lighting shall not create a nuisance to the nearby neighbors and LED lighting is recommended Lighting shall not be an impairment to drivers on Main Street or Pearl Street.
4. The developer/owner shall clarify to the Village Board why it appears trees are planned to be removed on Pearl Street.
5. The developed/owner should make sure the number of trees on Main Street and Pearl Street are evenly spaced.
6. Tree placement shall be coordinated with the Village Electric Department.

Resolution was introduced by Trustee J. Dale Abram, second by Trustee Bryan Woleben with vote as follows:

Upon Roll Call vote the following votes were cast:

Mayor Hazelton voting \_\_Aye\_\_

Trustee VanVlack voting \_Absent\_\_

Trustee Woleben voting \_\_Aye\_\_

Trustee Planty voting \_\_Aye\_\_

Trustee Abram voting \_\_Aye\_\_

The resolution was thereupon declared unanimously adopted:

Dated: December 17, 2014

Sonia Luszczak  
Village Clerk/Treasurer

**Public Comments:** No public comment.

**Department Reports:**

Sonia Luszczak, Village Clerk/Treasurer explained that there was an error in the billing cards that we received initially. Explained what the information on the card showed and asked the Board if they would like to have the rates show on the billing or leave them as they were? It was discussed and Trustee Gary Planty commented that it would be best to have the rates listed on the website as it would be better explained noting that they could contact the office with any further questions or concerns. Requested to purchase the

QuickBooks Accountant off of Amazon using her Amazon credit card and be reimbursed. Mayor explained that it is not our policy for employees to put charges on personal credit cards without prior approval. A motion was made that Sonia could order the QuickBooks Accountant and be reimbursed by Trustee Bryan Woleben and second Trustee J. Dale Abram. Vote was unanimous, motion carried.

Village attorney Sam Drayo is finalizing the Joy easement. The Mayor asked if it would be possible moving forward to receive the resolutions on Friday before the meeting so that we could get them completed and to the Board for their review before the actual meeting. Sam Drayo said that he agreed.

Tom Allen – Highway Superintendent - Jim Dolce would be coming back to work after his heart attack on Monday, December 22, 2014. Tom attended the County Meeting and was asked where the 100 foot ball drop was going to be in the Village? The Mayor commented that Al Seavy, the owner of St. Stephens Hotel, approached him regarding this event that would occur on New Year's Eve. The Mayor told Mr. Seavy that if he wanted Board approval he would need to come to the Village Board meeting.

Electric Department Head, Joe Majkowski stated he turned in for himself and Frank Cole to attend MEUA/NEPPA Line worker Safety training for 2015. He and his crew were almost completed with the installation of the new LED street lights on Central Avenue. There was discussion regarding opinions of the new street lights with a response that they were different but could tell the brightness once you were underneath them. There have been good comments regarding the Snowflakes in the Village. Joe Majkowski asked regarding the transformer for the new Dollar General site if the Board would approve him ordering them right away. It was agreed he could order once he received the correct information.

Code Enforcement Officer stated it was quiet in his area and would be turning in his year-end report to the Board.

Ryan Hazelton – Wastewater Treatment Plant – explained to the Board about the schooling that he had just completed and how intense the course was. It was a two week course with loads of homework and intense tests and it was a pass /fail course. He did pass the test. Ryan wanted to represent the Sewer Department and the Village stating that anyone was welcome to get a tour of the facility. Ryan noted that he would be completing more schooling in February and would then have his 2A license which will be the highest license at the Plant beside Paul Fisher. A questions was asked when Ryan would have his 3A license, it would be 3 years, State mandated, before that would happen. The Mayor congratulated Ryan on his accomplishment.

Fire Department – The Mayor spoke on behalf of the Fire Chief that there was a drill scheduled for the weekend, however, Trustee Woleben stated that it was cancelled. The Chief asked about going out to bid to on the meeting room as it is extremely hard to get volunteers to complete the work. The Board would review the bids.

### **Committee Reports:**

Trustee Gary Planty noted he looked into the grant from Homeland Security for the new transformer and found that it is still in review. Also inquired with Gail Fischer regarding a grant to digitize old records. Trustee Planty is looking into having her come visit and give her suggestions. There are two considerations for sewer credit's – 79 Old Mill Rd was a water leak and was repaired, would receive a \$88.66 credit for sewer, as well as 25 Pullman Street for water and sewer billing that was on the stopped water meter list. The meter was changed out and there is a consideration in the amount of \$59.15 for water and \$39.39 for sewer. Motion was made by Trustee Gary Planty and second by J. Dale Abram approving the credits as noted. Vote was unanimous, motion carried.

Trustee Bryan Woleben – The joint fire drill on December 20, 2014 at 8:00 a.m. with Portland and Westfield was cancelled due to lack of participation.

Trustee Dale VanVlack had no report.

Trustee Dale Abram noted they are working with Civil Service on the Wastewater Trainee. Interviewed for the Office position with a start date in January.

### **Mayor Report:**

Mayor Hazelton had the front and back doors rekeyed due to the loss of several keys over the years. This was completed in the amount of \$124.00 under Mayor Contractual.

There was a young woman that put in a claim for the right side mirror on her car when the Village plowed the Municipal lot. The Mayor went and reviewed the car and found pieces of the mirror on the ground. With not being able to know for sure how this happened, but that it would make sense it could have been done during plowing, the Mayor contacted our insurance carrier and found that under New York State Law, we are not responsible for the damage done during plowing unless it was malicious. The Mayor found a mirror that would match the car for under \$45.00 and is having it replaced at a cost under \$100.00.

Regional water still continues to be an issue. There is another Chadwick Bay meeting to be held on Thursday, December 18, 2014 that neither the Mayor nor J. Dale Abram could attend.

The Mayor received a letter of approval on the FEMA bill for repairs that we made to the creek after the flood. Originally the project was for \$57,000.00, we completed the repairs for \$18,000.00. The letter stated that we would be receiving the payment soon. The monies would then be transferred into the Timber account as that is where it came out of for the repairs.

The banking is still in process due to not all accounts showing online.

The Mayor would entertain a motion to change the meeting time from 7:00 p.m. to 7:30 p.m. start to accommodate one of the trustees employment and driving from Buffalo by Trustee Gary Planty and second by Trustee Bryan Woleben. Vote was unanimous, motion carried.

The Mayor had a discussion with Andy Goodell on the water contract with Corrections. Mr. Goodell stated that probably around the first of the year we should have a final contract. It is in the Comptroller's office now and with the holidays there was no expectation that it would be completed before then.

We continue to have issues with the telephones in the office. DFT and Time Warner have both been to the office and replaced things, but they still are not work properly. The Mayor called Fairpoint Communications and requested a quote for telephone services. More to follow.

**New Business:**

Resolution 112-14 Approval to attend MEUA/NEPPA 2015 Lineworker safety training program:

**RESOLUTION 112-14**

**APPROVAL TO ATTEND MEUA/NEPPA 2015 LINEWORKER SAFETY TRAINING PROGRAM**

WHEREAS Joe Majkowski and Frank Cole have requested approval to attend MEUA/NEPPA 2015 Line-worker Safety Training Programs for 8 days on the following dates; January 6, 21, April 13, June 11, August 21, October 19, November 13 and December 11, 2015 at Mayville Fire Hall, Mayville, NY. The registration fee is \$1,860.00 per person. Travel will be by the Village vehicle.

This training will define annual safety training to be qualified in pole top rescue by OSHA requirements.

NOW THEREFORE BE IT RESOLVED, authorization is approved for Joe Majkowski and Frank Cole to attend the training as listed.

Resolution was introduced by Trustee Dale VanVlack, second by Trustee Bryan Woleben with vote as follows:

4 ayes            0 nays            0 absent

Date:            December 17, 2014

Sonia Luszcak  
Village Clerk/Treasurer

Resolution 113-14 Approval for Special Use Permit/Site Plan for Dollar General Retail Store – Introduced at the beginning of the meeting.

Resolution 114-14 Establishing an Employee Accrued Liability Reserve Fund

## RESOLUTION 114-14

### ESTABLISHING AN EMPLOYEE ACCRUED LIABILITY RESERVE FUND

WHEREAS the Board of Trustees of the Village of Brocton desire to establish an employee benefit accrued liability reserve fund so that the Village of Brocton may make expenditures from such fund for any accrued employee benefit payment due an employee of the Village of Brocton upon his or her termination of service with the Village of Brocton.

NOW THEREFORE BE IT RESOLVED that the Board of Trustees of the Village of Brocton hereby establishes an Employee Benefit Accrued Liability Reserve Fund pursuant to Section 6-p of the General Municipal Law of the State of New York

BE IT FURTHER RESOLVED that in accordance with said Section 6-p there may be paid into such fund:

- a) Such amount as may be provided by budgetary appropriations;
- b) Amounts from any other fund authorized by the General Municipal Law by resolution subject to permissive referendum;
- c) Such other funds as may be legally appropriated.

BE IT FURTHER RESOLVED that in accordance with said Section 6-p expenditures may be made from the fund for the following purposes;

- a) The cash payment of the monetary value of accumulated or accrued and unused sick leave, person leave, holiday leave, vacation leave, time allowance granted in lieu of overtime compensation and other forms of payment for accrued leave time and benefits due to a municipal employee upon termination of municipal employment and separation from service “as required by ordinance, local law, collective bargaining agreement or Section six (6) of the civil service law”,
- b) The reasonable costs of the administration of the reserve fund;

- c) Expert or professional service rendered in connection with the investigation, adjustment or settlement of claims, actions or judgments relating to claims for accrued employee benefits.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

Resolution was introduced by Trustee Bryan Woleben, second by Trustee Gary Planty with vote as follows:

4 ayes            0 nays            0 absent

Date: December 17, 2014

Sonia Luszcak  
Village Clerk/Treasurer

**Old Business:**

The website continues to progress.

The Mayor reported that the General Code is being worked on.

A motion was made by Trustee Dale VanVlack, second by Trustee Bryan Woleben to authorize payment of signed approved vouchers. Vote was unanimous, motion carried.

A motion was made by Trustee Bryan Woleben, second by Trustee J. Dale Abram to approve written reports as presented. Vote was unanimous, motion carried.

A motion was made to go into executive session by Trustee Dale VanVlack, second by Bryan Woleben to discuss an employee personnel issue at 7:35 p.m. Vote was unanimous, motion carried.

Mayor Hazelton asked the board for a motion to return to regular session from executive session at 7:55 p.m. A motion was made by Trustee Bryan Woleben and second by Trustee Gary Planty. Vote was unanimous, motion carried. No action taken.

A motion was made by Trustee Bryan Woleben, seconded by Trustee J. Dale Abram to adjourn the meeting at 7:56 p.m... Vote was unanimous, motion carried.

Respectfully submitted by,

Sonia Luszczak  
Village Clerk/Treasurer