

Minutes
Regular monthly Village Board Meeting
Wednesday, November 18, 2020

Due to COVID-19 and the Governors Executive Order 202.26 the Village Board and the public are via Zoom Videoconference with a telephone option to listen in.

Present: Mayor Dale Leiser

Trustees: David Flaherty
Dorene Weir
Michael Abrams
James Mark Browne

Also present via Zoom Videoconference/telephone: Climate Smart Committee Chair, William Mancini; Economic Development Director, Renee Shur; Building Inspector, Peter Bujanow; Village Attorney Robert Fitzsimons and approximately 60 others in attendance.

Mayor Leiser opened the monthly meeting of the Village Board at 7:00 PM.

CLERK/TREASURER

Minutes- A motion made by Trustee Weir approving the minutes of October 18, 2020 regular monthly Village Board Meeting and Special meeting of November 3, 2020; seconded by Trustee Flaherty. All voted "aye".

Abstract-A motion made by Trustee Flaherty approving the monthly abstract for the total amount of \$40,035.58. The General Fund expenditures of \$31,719.90; Water Fund expenditures of \$3,434.19; and Sewer Fund expenditures of \$4,881.49; seconded by Trustee Weir. All voted "aye."

Treasurer's Report-A motion made by Trustee Flaherty approving the monthly treasurer's report; seconded by Trustee Weir. All voted "aye".

CODE ENFORCEMENT OFFICER

Code Enforcement Officer Peter Bujanow submitted his monthly activity report for the month of October.

ECONOMIC DEVELOPMENT DIRECTOR

Economic Development Director Renee Shur submitted her October 2020 monthly report to the Village Board.

Hudson River Valley National Heritage Grant-Renee requested the village apply for grant funding in the amount of \$2,000 for a GeoTourist.com tour app of the Walking & Bicycling tour brochure. A motion made by Trustee Browne to adopt the following resolution seconded by Trustee Flaherty. All voted "aye".

WHEREAS, the Village of Kinderhook is applying to the Hudson River Valley National Heritage Area 2020 Heritage Development Grant Program for a project entitled GeoTourist.com tour app of the "Historic Kinderhook Village - A Walking & Bicycling Tour" brochure to be located in village,

WHEREAS, the grant application requires the applicant municipality to obtain the approval/endorsement of the governing body of the municipality or municipalities in which the project will be located;

NOW, THEREFORE, be it resolved that the governing board of Village of Kinderhook hereby does approve and endorse the application for a grant under the Hudson River Valley National Heritage Area Heritage Development Grant Program, for a project known as GeoTourist.com tour app of the “Historic Kinderhook Village - A Walking & Bicycling Tour” brochure and located within this community.

Pop up Shops- Trustee Browne was the Chair of the Village Planning Board when the 2016 Updated Comprehensive Plan committee produced their report where discussions concerning having Pop up Shops in the village was previously recommended. He has forwarded a proposed law he received from another municipality (Town of Kinderhook) to the village attorney for review and consideration that would allow the Planning Board to approve a pop up shop without having to do a full site plan review and public hearing. Pop up Shops at present need to be approved by the Planning Board with consideration of the retail business itself; working with the landlord as well. This is for an existing retail store that would want to temporarily allow another person and/or business to sell their items in existing store retail to customer.

Planting flower bulbs at Mills Park- Renee wanted to officially thank Sigrid Gray, Michael Allen, Dana Spot and all the other volunteers who generously donated their time planting thousands of bulbs at Mills Park.

Electric Charging Station-Renee also wanted to thank Stan Gresens for the donation of supplies, his time designing an enclosure and the installation of the enclosure of the electrical panel for the charging station at the municipal parking lot.

2, 4, and 8 Hudson Street- Village resident Darren Waterston wanted to briefly introduce himself and his business partner Yen Ngo to the Village Board. They will be purchasing the former Treasurer Shop from Carol Knauss at 2, 4, and 8 Hudson Street in the center of the village. He was inspired to do something to contribute to the community and to invest in a place for where his home has been for the last three years. He stated his business partner Yen is a chef based in New York that brings an incredible business sense, she is an incredible entrepreneur person and has 20 years of culinary and hospitality service. They will be opening a restaurant called the Avairy a farm to table cuisine showing the best of Columbia County and working with all the best farmers in the region. The restaurant will reside in the 1940 steel framed structure that is attached to the brick street front buildings. There will be the restaurant/bar area with a lounge, a dining room an extensive outdoor garden area to create a more public space supporting the community square. The outdoor area can be used by the restaurant and for other civic ways. He noted there are four additional retail spaces and three residential spaces in the building. He appreciates the Code Enforcement Officer Peter Bujanow assistance and the Historic Preservation Commission stating it will take a village for this project. His business partner Yen stated it is a big visionary project of the epic center for the village. The restaurant will be their first project to open and they will be keeping the current retail. The remainder vision of the entire project may be a five year project.

MAYOR LEISER

The School “Truth Be Told”-Mayor Leiser stated The School is in a residential area in the village’s historic district surrounded by other historic buildings like the Burgoyne House, The Benedict Arnold House and the Kinderhook Reformed Church. He believes all the boards take pride in what they do in the historic district. The village did receive several emails that were forwarded to all of the Village Board members, Code Enforcement Officer and the Village Attorney. He wanted to thank everyone for their concerns but requested the village attorney to speak on behalf of the Village and its position. Village attorney Robert Fitzsimmons noted he was asked by the mayor to address some points on the clarification of the process of The School and where the village stands. He noted by the emails the village has received that there is some confusion on what has happened and what is going to happen. Jack Shainman the owner of The

School is represented by local attorney Bill Better. Mr. Fitzsimons and Mr. Better have been in discussion and Mr. Better is in agreement on what the process is for The School. Mr. Fitzsimmons wanted to give a little history on the building citing the building was a school (Ichabod Crane High School) until 2012 when Mr. Shainman purchased the building and wanting to use it as an art gallery to display art. He made an application before the villages Planning Board proposing an art gallery in a residential area. The definition that was applied was a cultural facility as the building is in a residential zone so technically an art gallery or the sales of art is not permitted in a residential area. Mr. Shainman said he just wanted to display art and any sales would be done downstate in his other facility. A public hearing was held and it was defined he would open as a Cultural Facility. The Planning Board approved the site plan and special use permit that would allow Mr. Shainman to display art. The Planning Board approved the special use permit with conditions. Conditions would be something the Planning Board would do when giving permission for a business to open in a residential area. A few of the conditions given to Mr. Shainman was addressing the times for truck traffic when receiving deliveries, the number of events per year The School may request external changes to the building or new signage but that is to be reviewed by the Code Enforcement Officer for further Planning Board review or Historic Preservation review. Mr. Fitzsimmons continued with the development of The School stating a few years later in 2014 Mr. Shainman went before the Zoning Board of Appeals as he wanted to place some banners on the building. He went before the Zoning Board of Appeals requesting a variance because the size of the banners was larger than what the code allowed at the time. Mr. Shainman did receive the variance for the banners after a public hearing was held. He was allowed 186 ft. of banners for 180 days per event. That was Mr. Shainman's second review process with the village. In 2015 he wanted to install a sculpture on the front yard. The village code enforcement officer at the time deemed it to be art or a sculpture that did not require a foundation and would be placed temporarily therefore not needing any building permits. He deemed it as an accessory use to the cultural facility. That was discussed with the Zoning Board of Appeals who confirmed it as an accessory use. In 2020 the representatives from The School informed the village they would like to install a vinyl material to the front façade of the building on a temporary basis. It would say "Truth Be Told". The Code Enforcement Officer reviewed it and determined it would be a sign and the letters were larger than the banners and he was concerned with the flammability of the material and if the wrapping was going to cover the windows and doors. Mr. Fitzsimmons stated that was the summarization of the basis of the Code Enforcement Officers decision. After the decision a discussion session with village officials, Jack Shainman and his representatives on what his options and alternatives would be was had. The following day The Schools representatives informed the village that they were going to go ahead with their display. Their belief it is art and is exempt as an accessory and they should be allowed to do it. This differs from the Code Enforcement Officer's opinion. In Mr. Fitzsimmons Communication with their attorney Bill Better they intend to appeal the Code Enforcement officer's decision with the Zoning Board of Appeals. Mr. Fitzsimmons spoke with Mr. Better yesterday and he is preparing that document. Mr. Fitzsimmons explained when the village receives the appeal Mr. Shainman will appear before the Zoning Board of Appeals to make an argument a representation and to provide any documentation they may have as to why they believe the display is art and not signage. A public hearing will be set where people may make comments or submit comments to the ZBA. The ZBA will make the ultimate decision whether it is art or signage. Mr. Fitzsimmons further explained if it is art they will be able to do it with reasonable limitations. They would have to technically modify their special use permit with the Planning Board. If it is a sign the issue of the size of the sign will need to be addressed. They are within their rights to request a variance for a larger sign like they did with the banners. Mr. Fitzsimmons stated that is the progression of the project and the Village Board is technically out of the loop and or control of the process. Mr. Fitzsimmons further explained the Village Board could not just make a motion to just let the matter go because the Village Board has an order

from the Code Enforcement Officer and an appeal pending and that legal process has to go forward and it will give everyone in the village an opportunity to come out in support of, come out with concerns. Another issue the village wanted Mr. Fitzsimmons to clarify is the issue that people believe the village is fining The School \$200 per day. That is not correct, there is an order they're in violation of the zoning code. They have stated they intend to file an appeal which they have 60 days to file that appeal. The appeal stays or stops any enforcement actions until they go before the ZBA. The only way the village would be able to get a fine through zoning violation is if they refuse to go before the ZBA and review the issue. If that were to happen the village would have to determine if they would want to bring a court action and then a court would have a trial and if there was a conviction, fines could be assessed. Mr. Fitzsimmons continues to say he hopes the public can take away that there is a process. The village and the gallery maybe coming from different avenues but they are working together. The public will have an opportunity for comment in a public forum at the Public Hearing with the Zoning Board of Appeals.

Mayor Leiser confirmed with Mr. Fitzsimmons there should not be any public comment at this time. Mr. Fitzsimmons explained public comments at this time would not be appropriate as the applicant's attorney was not in attendance and as he just stated the proper avenue for public comment would be at the Public Hearing with the ZBA.

Village resident Rima Bostic requested to make several comments on The School. Mayor Leiser said the Village Board is not taking comments on The School; comments should be made at the ZBA public hearing. She felt she should be able to make a comment during taxpayer time. Robert Fitzsimmons noted comments on The School should not be received at this time. It is not fair to allow a few residents to make comments without noticing a meeting for that without allowing all people in support or against and having a meeting noticed to the public for it. The School is being referred to the ZBA and the village board should keep it at the process. The village has received Ms. Bostic's comments by email and they have been distributed to the village board members prior to the meeting. Mr. Fitzsimmons further stated the village will continue to take written comments to be forwarded to the ZBA. Ms. Bostic feels "it is an inappropriate suppression of the public to communicate with the board but she will respect that."

Former Trustee Brian Murphy feels with the amount of people on the zoom meeting the Village Board should allow a few comments and would like the village to comment on how the building inspector arrived at his decision that The School is in violation.

Rima Bostick inquired if the village had received an opinion from the comptroller's office to not allow residents to speak at a board meeting. She stated the village board is squashing her freedom of speech at the board meeting and she reserves her right to appeal it.

Mr. Fitzsimmons stated he has researched it many times. The Village Board does not have to allow the public to comment the only time public comment has to be heard is at a public hearing. He stated Ms. Bostick can contact the committee on open government that deals with open meetings. He understands her frustration and concerns but the best he can do is the forum coming up with the ZBA that will be noticed for all parties. If there needs to be three two hour zoom meetings to make sure it is balanced for everyone for everyone to have the application material and to have the applicant have a good opportunity to explain their position the code enforcement officer has his opportunity to be heard on his position so the ZBA can hear everyone's comments, concerns and opinions and so the ZBA can make a reasoned decision. As said prior, the village board cannot make a decision and to have an open discussion at this time is not the best legal way to proceed or the best use of everyone's time tonight.

COVID- Mayor Leiser stated the COVID numbers are increasing in our county and he would like the new members of the board to know that each municipality has chosen what was best for their municipality as to how to handle the office staff and the DPW. The village office was closed to the public and the office staff alternated working from home or being in the office at different times. Our DPW, Dave and Rob worked one week on one week off to keep them separated for safety. With leaf season and winter approaching the village will have to do something different.

48 William Street- Mayor Leiser read the following update from the engineer Ray Jurkowski and Alpine Environmental. “Do to the locations of the asbestos containing materials including a coating on the existing foundation. Alpine has recommended that the entire building be removed rather than piece meal the demolition.

In their opinion, moving forward in this manner will be less costly than if the abatement/demo is completed in stages. In addition without the variance, the foundation would have to be demolished and taken away as non-friable asbestos. With the variance the foundation can be cleaned and left in place and backfilled. As such, Alpine is seeking a variance from the State Department of labor that will allow the destruction of the unsafe structure with the non-friable materials left in place. Seeking this type of variance from the State is not uncommon. The variance will include an outline of the safeguard that will be taken during the demolition including outside air sampling. Once it the variance is received from the State the Village can solicit bids from contractors to complete the demolition work. Mr. Jurkowski has prepared a draft of the Bid package and he awaiting the Variance so that it can be included.”

Kristi Ambrosetti-Inquired about two items one being the time frame of the bid documents with the hiring of the contractors and second with the structure being deemed an unsafe structure and going into the winter she is concerned about the safety of the village. Mayor Leiser explained the bid documents are ready to go and once the waiver is received from the state the village will request the bids to be back within ten days for the Village Board to approve a bid. If a special meeting needs to be called prior to a Village Board meeting to have the project move forward he will call one. In the bid document the board can request when to have the job started and completed by. The village would like to address this project immediately. Ms. Dobies has requested to retrieve her personal property. The village will require a waiver to be signed and a representative from the village will need to go with her. Village resident Rima Bostic requested the Village Board add a line in the bid documents that the contractor keeps the area clean at all times and not leave any debris behind and not use the neighboring properties. Mayor Leiser noted if there is a need for the use of neighboring properties like Mr. Palumbo’s driveway a temporary easement will be requested.

DPW-the entire month consisted of leaf pickup for the DPW and will continue to November 30th.

TRUSTEE FLAHERTY

Van Buren Hall-Due to COVID and the regulations for cleaning the village will not be renting out Van Buren Hall or opening the playground a Rothermel Park.

Zoning Board of Appeals and the Climate Smart Task Force have not met. William Mancini did send the Village Board a grant opportunity for a training program with Lifeboats HV a pilot program to support Climate Smart Communities Task Force Coordinators. He needs permission from the board and an elected official as a contact person from the village board. Trustee Flaherty made a motion to apply for the Lifeboats V pilot program with himself being the village contact person along with Mr. Mancini; seconded by Trustee Weir. All voted “aye.”

TRUSTEE ABRAMS

Sidewalk snow clearing-A motion made by Trustee Abrams to contract with Hall Construction & Landscaping, Inc. for sidewalk snow removal for the 2020-2021 season at the same cost as last season; seconded by Trustee Flaherty. All voted “aye.”

Water & Sewer Department-The unpaid water and sewer bills are at approximately at \$11,100 with \$7,500 in unpaid water and \$3,600 in unpaid sewer bills. There were several residents inquiring why their water bills were higher. For the most part due to COVID residents were working from home using more water, washing hands, laundry bathroom use etc.

TRUSTEE WEIR

Village of Kinderhook Cable TV Franchise Renewal-The village received the contract from Charter Communications known as Spectrum. A scheduled meeting with their representative Kevin Egan on December 2nd to review the contract and answer any questions the village may have. Trustee Weir received documents from Consolidated Communications formerly Berkshire and she has forwarded to the village attorney for review.

Recreation Commission-the signs for the playground “Closed Dusk to Dawn” and “No Dogs in Little League Field” have been received. The DPW will install the signs when their schedule allows. The village accepted the resignation letter for Angie Hickman and is seeking a new member to fulfill the remainder of her term.

Halloween Festivities-Trustee Weir wanted to thank Recreation Commission and particularly David Dellehunt and his family for putting together the wonderful drive through Halloween event at Rothermel Park. Over 100 cars went through all with positive feedback.

Local Waterfront Revitalization Program (NWRP)-RESOLUTION BY THE VILLAGE OF KINDERHOOK VILLAGE BOARD AUTHORIZING THE VILLAGES OF KINDERHOOK AND VALATIE TO ENTER INTO A CONTRACT WITH THE NYS DEPARTMENT OF STATE FOR A LOCAL WATERFRONT REVITALIZATION PROGRAM

The following Resolution was proposed and seconded:

Resolution by: Mayor Dale Leiser;

Seconded by: Trustee David Flaherty.

WHEREAS, the Kinderhook Creek waterway feeds into the Hudson River traversing the Villages of Valatie, Kinderhook and other local municipalities within Columbia County; and

WHEREAS, the waterway plays a central role in our local ecosystem impacting groundwater quality, biodiversity, and recreation; and

WHEREAS, the Villages have jointly applied for, and been awarded, a grant to prepare a Local Waterfront Revitalization Program, administered by the Office of Planning & Development under the New York Department of State; and

WHEREAS, the Villages of Kinderhook and Valatie will develop a joint Local Waterfront Revitalization Program (LWRP) that establishes a community vision for their downtowns and six miles of their shared Kinderhook Creek waterfront; and

WHEREAS, the LWRP will guide future revitalization of the Village's downtown and waterfront areas and identify projects that enhance waterfront access opportunities and highlight local heritage; and

WHEREAS, the Villages desire to authorize the contract for the LWRP program.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Trustees of the Village of Kinderhook authorize the Mayor to execute any and all agreements, specifically Contract C1001650, (the Master Grant Contract) and any associated documents for the Villages of Kinderhook and Valatie to accept and develop a joint Local Waterfront Revitalization Program.

Upon question of the foregoing Resolution, the following Board members voted "Aye" in favor of the Resolution:

Mayor Dale Leiser;

Trustee David Flaherty;

Trustee Dorene Weir;

Trustee Michael Abrams; and

Trustee James Mark Browne.

The following Board members voted "No" in opposition thereto:

_____ ; and

_____.

The Resolution having been approved by a majority of the Village Board, the same was declared duly adopted by the Mayor of the Village of Kinderhook.

TRUSTEE BROWNE

Albany Hudson Electric Trail- Hudson Valley has a tentative date of November 15th to open parts of the trail. That has not happened yet due to COVID and the section of the trail between Valatie and Kinderhook is not completed. The village of Kinderhook will be taking over the maintenance of the trail within the village limits when the construction is complete including all the required signs due to safety reasons. Trustee Browne is meeting with former Mayor Dunham to survey what signs are installed. The state has had issues having the signs made and installed. He is also working with Renee on a directional sign similar to the one in the village square to be placed at Mills Park noting areas of interest in the village for people walking and biking on the trail.

Planning Board- As spoken of previously in the planning and Village Board meetings Darren Waterston is opening a restaurant in the village and attended the recent Planning Board meeting. Also, the Planning Board is working on researching how to allow for pop up shops.

Insurance- a quote was received from Metz Wood Harder Insurance for Cyber Security. Trustee Browne is working with the county and a company called NYSTEC to conduct a security audit to determine the village's vulnerabilities before purchasing insurance. Former Trustee Brian Murphy inquired if the county can indemnify the village now that they manage the village's server. Trustee Browne said he has discussed IT support under the agreement, however, he is not aware of the status of indemnification.

KBPA

Reading of the Legend of Sleepy Hollow-The Reading of the Legend of Sleepy Hollow in the village square went very well.

December Nights-The KBPA is hosting December Nights from December 1st until January 1st by adding more lights and decorations in the village square and holding a door decorating contest. The KBPA is hoping to bring a more joyous time during this difficult time with COVID. On December 4th there will be three Santa Stations within the village following social-distancing guidelines. Village eateries will be opening for takeout. Approval of closing of the one way side street during the event and the trough area for safety was approved.

Trustee Flaherty noted the advertisement for December Nights was nicely done. Renee stated it was donated by Julie Fels and her company Feisty Brown a local graphic design company. Renee would also like to thank Feisty Brown for their donation. Trustee Flaherty will like to send Julie an email complementing her and thanking her for her donation.

TAXPAYER TIME

Trustee Flaherty wanted to thank Mr. Fitzsimmons for explaining the process The School is going through in cooperation with the village.

Trustee Browne noted all the board members read through all the emails received and feels the village has been forthright in telling the community what our process is and the community can send in additional emails to be forwarded to the ZBA. The village board cannot debate the other things as we need to go through the process and that is our position.

Chris Hannagan stated he was not sure if it was appropriate to discuss at this time as the village attorney noted the process. He is not disagreeing with the process but feels the time frame about the communication is inaccurate. He noted in full disclosure he works for The School. He stated Peter is a good man and he wants to be open and positive but he is a little aggrieved that he advocated for Peter within the business within the gallery. He noted he was not sure the Mayor knew he sent an email to Peter on August 13th and met with him a week later.

Code Enforcement Officer asked if he could reply and that he has documentation he can present or if the board should not be having this conversation because it is not fair to him to have the statement made about him unless he has an opportunity to respond. He would appreciate it if this was not discussed further unless he has an opportunity.

Robert Fitzsimmons stated that was a fair statement from Peter and he understands the frustration across the board.

Clark Griffin a representative of the School. Sadly between the lawyers and wanted to thank everyone who came out to support the school.

Richard Byrne requested clarification on the removable of 48 William Street. The village stated there is tearing down the house but that the village knew someone who wanted to purchase the house but that inquiry went to the owner. He inquired why his tax dollars are being used to tear down the building when Ms. Dobies can get money out of the house. It is not the village's responsibility to tear something down if she has the money to fix it or is he going to receive the money of the sale of the property?

Robert Fitzsimmons stated the village is moving forward with the Alpine Environmental and the asbestos concerns along with the bidding process. The village has declared the house as an emergency situation which gives the village the authority to go ahead with the demolition. The

village has been in communication with the owner over a period of time and the owner is non-complaint in bringing the building to code. The village was made aware of a possible purchaser but the village will only pass the information onto the owner. The village was informed there was someone interested in purchasing it this week. If someone purchases it from her then the village would put limitations on that person for fixing it. If that were to happen that would benefit her as an elderly person not having a nursing home having a heavy lien placed on her property. It would benefit the village and the tax payers by not having to place a lien on the property and trying to recoup that money later. As the village runs its course we will continue with the Alpine environmental the waiver from he state the bidding and the demolition. If in the meantime if she can sell the house where a person is going to draw a building permit and to the demolition prior to the village having to pay prevailing wage and other things that make municipal work more expensive the village will not foreclose on that opportunity. The village is not brokering a sale not taking ownership of the property or advocating a sale.

Brad Lorenz lives at 30 William Street he inquired if Ms. Dobies is entraining offers to sell the home how long is she allowed to string along the community and the village on having a buyer and holding up the process. Village attorney Rob Fitzsimons responded she is not going to hold up the process. The village is moving forward and working to keep the process at the tightest time that we can.

Trustee Flaherty noted he is very sympathetic with the neighbors as he lived next door to a similar situation. It took years to get it done because you cannot arbitrarily take someone's home that they own and tear it down. He guarantees as soon as the bids are received the village board will vote aye to have this dangerous eyesore torn down.

Kristi Ambrosetti-Inquired on why it is taking so long to complete the process. Why the bidding process was not complete yet as this process started back in February and that it is very frustrating for the neighbors.

Village attorney Fitzsimmons explained that it took time to get Alpine Environmental to the village during COVID and that they are a very busy specialized company that tests for asbestos. They had to check on the garage structure, the house structure, the siding structure and the foundation. They have to determine if the material is friable meaning the asbestos is encapsulated in the material. If so, you can remove the shingles off and it will not cause the asbestos to go into the air. If it is not capsulated and ca be broken up and create asbestos dust the abatement will need to be done differently. Alpines recommendation is to take down the entire structure at once. They want to leave the foundation in place but there is some potential asbestos. They need a variance from the State to do that. They are waiting on the waiver from the state for the environmental issues otherwise the engineer has everything else ready to go.

A motion made by Mayor Leiser to adjourn 8:43 pm; seconded by Trustee Weir. All voted "aye".

Respectfully submitted,

Nicole H. Heeder
Village Clerk