

MINUTES OF THE PUBLIC HEARING AND BOARD OF TRUSTEES MEETING HELD ON OCTOBER 15, 2022 AT 103 BROADWAY, SALTAIRE NEW YORK AND VIA REMOTE ATTENDANCE, PARTICIPATION AND OBSERVATION VIA AN AUDIO/VIDEO CONNECTION TO THE INTERNET.

Mayor O'Brien called the Board of Trustees meeting to order at 8:18 a.m., and the following were in attendance via video or phone connection:

Hugh O'Brien, Mayor  
Frank Wolf, Deputy Mayor, Trustee  
Nat Oppenheimer, Trustee  
Susan Skerritt, Trustee  
Anna Kovner, Trustee  
Scott Rosenblum, Advisor to the Board  
Joseph Prokop, Village Attorney  
Mario Posillico, Administrator & Clerk  
Donna Lyudmer, Village Treasurer  
And at times up to 0 persons attended in-person and 0 other attendees observed through internet connection

ADJOURN INTO EXECUTIVE SESSION

Trustee Oppenheimer made a motion at 8:18 a.m. that the Board adjourn into Executive Session to discuss one or more of the following: information relating to current and future investigation and or prosecution of offenses in the Village, litigation strategy in pending or future litigation, personnel matters as described in Public Officers Law Section 105(f), and the purchase or sale of real property. The motion was seconded by Trustee Kovner and on call it was approved according to the following vote:

Motion: Trustee Oppenheimer  
Seconded: Trustee Kovner  
In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner  
Against: None  
Abstain: None

RE-ADJOURNMENT INTO PUBLIC SESSION

Trustee Skerritt made a motion at 9:02 a.m. to close the Executive Session and to re-adjourn into public session after a short break. The motion was seconded by Trustee Oppenheimer and on call it was approved according to the following vote:

Motion: Trustee Skerritt  
Seconded: Trustee Oppenheimer  
In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner  
Against: None  
Abstain: None

Mayor O'Brien called the Public Hearing to order at 9:05 a.m. and the following were in attendance:

Hugh O'Brien, Mayor  
Frank Wolf, Deputy Mayor, Trustee

Nat Oppenheimer, Trustee  
Susan Skerritt, Trustee  
Anna Kovner, Trustee  
Scott Rosenblum, Advisor to the Board  
Joseph Prokop, Village Attorney  
Mario Posillico, Administrator & Clerk  
Donna Lyudmer, Village Treasurer  
And at times up to 15 persons attended in-person and 19 other attendees observed through internet connection

**PUBLIC HEARING: LOCAL LAW MODIFICATION – CHAPTERS 18 (BUILDING CONSTRUCTION) AND 55 (ZONING) – TO REGULATE HARDSCAPE INSTALLATION**

Mayor O'Brien stated that a final draft of modifications to Chapters 55 and 18 regulating hardscapes had met all the requirements for consideration. Village Administrator Posillico provided an overview of the draft laws for each Chapter. Discussion ensued, and after discussion and all having a chance to be heard, Trustee Wolf made a motion at 9:35 a.m. to adjourn the public hearing. The motion was seconded by Trustee Skerritt, and on call the motion was carried according to the following vote:

Motion: Trustee Wolf

Seconded: Trustee Skerritt

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

**PUBLIC HEARING: LOCAL LAW MODIFICATION – CHAPTER 18 (BUILDING CONSTRUCTION) TO AUTHORIZE MORATORIUM ON HARDSCAPE**

Village Attorney Prokop outlined the proposed modification to Chapter 18 that would create a moratorium on the installation of hardscape for 3 months from the date of adoption. After discussion and all having a chance to be heard, Trustee Wolf made a motion at 9:45 a.m. to close the public hearing. The motion was seconded by Trustee Oppenheimer, and on call the motion was carried according to the following vote:

Motion: Trustee Wolf

Seconded: Trustee Oppenheimer

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

**CREATION OF A MORATORIUM ON HARDSCAPE**

Discussion continued on hardscape, and the possibility of it being installed before a local law is finalized and adopted. After discussion and all having a chance to be heard. Trustee Wolf made a motion to, effective immediately, establish a moratorium prohibiting the installation of any hardscape on any private or commercial property located in the Village, defined as any assembly outside of the Enclosed Area that is not a deck that sits on or immediately above grade or natural vegetation, made of a material other than wood or a wood-substitute, which shall include but not be limited to bricks, stones, pavers, gravel or other similar material, until such time that Board may adopt a local law regulating hardscape, or three months from adoption of the resolution, whichever is sooner; and

further to amend the previous resolution closing the public hearing on a moratorium law to adjourn that public hearing instead of closing it.

The motion was seconded by Trustee Skerritt, and the motion was carried according to the following vote:

Motion: Trustee Wolf

Seconded: Trustee Skerritt

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

#### AUTHORIZATION TO MODIFY THE DESIGN PARAMETERS OF A NEW PLAYGROUND

Trustee Oppenheimer reported on the process of design for the new playground being proposed by the Saltaire Citizens Association (SCA). He recounted that the first iteration of the design by the preferred vendor was constrained by the boundaries of the property that contained the existing main playground and the Arts and Craft shed, which resulted in some components being higher and closer to each other than preferred because there was not enough room to spread them out. He stated that the Board, in reviewing its options and the available resources, primarily the adjacent Village property to the east, commonly known as the tree farm, has prepared parameters of new site boundaries for the proposed playground that included the non-Wetland areas of the tree farm, which resulted in a total area of 9,000 square feet, a 50% increase of the site area above the original site. The sketch of these new boundaries had been posted online and made available to those in attendance. SCA president Kathy Shaw was in attendance via the remote platform, and stated that the proposed expanded area would facilitate a redesign to account for the space and shading issues that were raised during the public comment period. After discussion, and all having a chance to be heard, Trustee Oppenheimer made a motion to authorize the SCA and Board representatives to provide the larger site plan as presented to the design team to prepare an alternate design for review by the Board.

The motion was seconded by Trustee Wolf, and the motion was carried according to the following vote:

Motion: Trustee Oppenheimer

Seconded: Trustee Wolf

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

#### 2023 MARINA FEES

Village Administrator Posillico stated that the 2023 Marina applications are scheduled and ready to be sent out to potential applicants; and presented a fee schedule based on a 4.5% increase for all slip widths and lengths, which is below the current annual CPI increase for the previous year. After discussion, Trustee Skerritt made a motion to authorize the 2023 Marina fees as presented, which represents a 4.5% increase above the 2022 rates.

The motion was seconded by Trustee Oppenheimer and on call it was approved according to the following vote:

Motion: Trustee Skerritt

Seconded: Trustee Oppenheimer  
In Favor: Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt  
Against: Mayor O'Brien  
Abstain: Trustee Kovner

#### CLOSEOUT OF CONCRETE REPLACEMENT CAPITAL PROJECT

Trustee Wolf made the following motion:

WHEREAS the Board of Trustees of the Village of Saltaire had created a capital project for the Concrete Walks Replacement Project PW 2034 and received federal grant awards of \$7,607,790.49 to fund part of the total final cost-to-date of \$7,629,131.05, and to date used \$21,340.56 from general fund reserves to fund the balance of the capital project;

BE IT RESOLVED that the Board of Trustees hereby closes out the Concrete Walks Replacement Project PW 2034, and authorizes the necessary accounting entries be made to effect said closeout and to transfer \$21,340.56 from the General Fund to the Capital Fund to eliminate the capital fund balance deficit.

The motion was seconded by Trustee Skerritt, and the motion was carried according to the following vote:

Motion: Trustee Wolf  
Seconded: Trustee Skerritt  
In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner  
Abstain: None  
Against: None

#### AUTHORIZATION TO ACCEPT PLANNING GRANT

Village Administrator Posillico reported that the Village was awarded a planning grant pursuant to the Village's application to the Building Resilient Infrastructure and Communities (BRIC) program. The award letter was distributed to the Board and posted online. He stated that the purpose of the planning grant is to study Village infrastructure vulnerable to environmental factors and to identify capital investments that would fortify that infrastructure, which would then be eligible for grant awards under FEMA's Hazard Mitigation Grant Program. He then stated that the required local match for the planning study is 25%, or \$62,456.25 with the grant award being \$187,368.75.

The scope of work related to four general areas for the study and pre-engineering are:

- Water Main Distribution: replacement south of Lighthouse Prom
- Water Main Well #1
- Reposting and new sanitary systems for 3 residential buildings
- Raising and Hardening the bayfront bulkhead as a hedge against sea-level rise and bay storms.

After discussion, and all having a chance to be heard, Trustee Oppenheimer made a motion to authorize the Village Administrator to accept the FY21 BRIC Village of Saltaire Scoping Project as presented, to execute the necessary contract documents, and to be authorized up to take \$62,456.25 from general reserves at the time needed to satisfy the grant requirements.

The motion was seconded by Trustee Wolf and on call it was approved according to the following vote:

Motion: Trustee Kovner

Seconded: Trustee Wolf

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

#### PAID FAMILY LEAVE AND MATERNITY LEAVE POLICY

Village Administrator Posillico stated that the Village had previously approved a maternity leave policy which allowed for four consecutive months of unpaid leave for employees affected by pregnancy, childbirth or related conditions, which provided for four months of unpaid leave. He also stated that it is common and more conducive to employee retention to allow that four months of leave to be taken intermittently over the course of a twelve-month period, which is also consistent with the allowance of the Village's paid leave policy, and recommended that the policy be amended to allow the equivalent number of work days in that four-month period (87 days) to be taken over a twelve-month period. After discussion and all having a chance to be heard, Trustee Kovner made a motion to adopt the following employment policy:

### Village of Saltaire Family Medical Leave

The Village of Saltaire fully recognizes eligible employees' rights and responsibilities accorded by the Family and Medical Leave Act (FMLA), applicable state and local family leave laws, and the Americans with Disabilities Act. The Village may, at its sole discretion regarding when and how, substitute paid leave for all or part of the eligible full-time employees' rights under the FMLA and for rights for unpaid maternity leave in accordance with the Village of Saltaire's paid-leave substitution provisions of this policy.

### Village of Saltaire Maternity Leave Policy

In addition, the Village of Saltaire is firmly committed to protecting the rights of expectant mothers and complying with Title VII of the 1964 Civil Rights Act as amended by the Pregnancy Discrimination Act of 1978. The Village of Saltaire's policy is to treat women affected by pregnancy, childbirth or related medical conditions in the same manner as other employees unable to work because of their physical condition in all employment aspects, including recruitment, hiring, training, promotion and benefits, plus with additional maternity leave benefits as provided herein.

Pregnant employees may continue to work until they are certified as unable to work by their physician. At that point, or the date of the birth of the child, the employee is entitled up to eighty-seven (87) work days leave from the Village due to pregnancy and maternity, which may be taken either consecutively, or, at the request of the employee with approval by the Village Administrator, intermittently over the course of not more than 12 months from the start of the leave. The Village will use the following allowances and credits to be applied in this priority order to the full eighty-seven (87) work days of allowable pregnancy/maternity leave, or return to work, whichever is sooner:

- Any unused Paid Time Off accrued for that employee, including Personal Time, Vacation Time, and Sick Time at a full rate of pay.
- If the Village of Saltaire provides a Paid-Leave insurance policy, that policy shall cover the employee from the time of the exhaustion of the Paid Time-Off period for the remainder of the period provided for by the Paid-leave insurance policy.
- From the time of the exhaustion of the benefits of a Paid-Leave insurance policy if one is in place, or the end of the unused Paid Time Off if a Paid-Leave insurance policy is not in place, the employee shall be on Unpaid Leave until return to work or to the conclusion of the eighty-seven (87) work days leave period, or at the conclusion of the 12-month period from the start of the maternity leave, whichever shall come first. The employee is entitled to receive benefits according to the statutorily-mandated benefit policy in effect at the time, and the Village of Saltaire's Paid Family Leave insurance plan, if provided, during this period.

The employee is entitled to return to the same or equivalent job with no loss of service-time or other rights or privileges upon return to work pursuant to the time limits set forth in this policy.

The employee will be considered to have voluntarily terminated employment with the Village of Saltaire if the employee does not return to work on a full-time basis on or before the eighty-seven (87) work days leave period described herein is exhausted, which shall be no later than 12 months after the commencement of the maternity leave.

The motion was seconded by Trustee Wolf, and the motion was carried according to the following vote:

Motion: Trustee Kovner

Seconded: Trustee Wolf

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

#### RACCOON INVESTIGATION

Mayor O'Brien reported on the higher-than-normal raccoon activity reported throughout the Village, resulting in reports of raccoons invading a number of homes in the Village. He stated that some residents have suggested that the Village should investigate what steps if any it can take to address the issue through a public program. Mayor O'Brien stated that raccoon problems, like other pest infestation, are typically left to the individual homeowners to address the problem on their property. After discussion, and all having a chance to be heard, Trustee Oppenheimer made a motion to authorize the Village Administrator to solicit proposals from wildlife experts to help the Board identify the potential public health risks associated with raccoons, as well as options available to address the problem on a village-wide basis, and to bring the results back the Board as soon as practical.

The motion was seconded by Trustee Skerritt, and the motion was carried according to the following vote:

Motion: Trustee Oppenheimer

Seconded: Trustee Skerritt

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

#### ADOPTION OF LOCAL LAW MODIFICATION TO CHAPTER 10 – BICYCLES

Mayor O'Brien provided an overview of the draft local law that had been presented at a duly noticed public hearing modifying Chapter 10 to regulate transportation of dogs on bicycles. After further discussion and all having a chance to be heard, Trustee Wolf made a motion to consider the adoption of the local law as a Type II action without need for further environmental review, and to adopt the local law to modify Chapter 10 of the Code of the Village of Saltaire in the form presented. The motion was seconded by Trustee Oppenheimer, and after all having a chance to be heard, the motion was carried according to the following vote:

Motion: Trustee Wolf

Seconded: Trustee Oppenheimer

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

#### MOTION TO CONSIDER THE PROCESS TO AUTHORIZE A REAL ESTATE TRANSFER TAX

Trustee Wolf reported that the Village had, pursuant to a previous Board resolution, made a formal request of the New York State Legislature to authorize the Village to impose a real estate transfer tax subject to a mandatory referendum. He further stated that the Village's request for State legislation never made it out of committee, presumably because the formal request was made very late in the legislative session, and that if the Board wanted to improve the chance for success it must start the process no later than mid-November. Discussion ensued amongst the Board members and those in attendance, and after discussion, and all having a chance to be heard, Trustee Wolf made a motion to authorize Village Attorney Prokop and Village Administrator Posillico to begin the process to present draft legislation to the Village's elected State representatives to authorize the Village to impose a tax on sales of real property where the buyer and seller act independently of each other, and not as part of an estate transfer or intergenerational family planning effort, and according to the following parameters: i) 2% tax rate; ii) 10-year authorization period; iii) buyer to pay the tax; and iv) funds to be designated for infrastructure improvements.

The motion was seconded by Trustee Oppenheimer, and the motion failed to carry according to the following vote:

Motion: Trustee Wolf

Seconded: Trustee Oppenheimer

In Favor: Trustee Wolf, Trustee Oppenheimer,

Abstain: None

Against: Mayor O'Brien, Trustee Skerritt, Trustee Kovner

#### REGISTRATION OF E-BIKES

Trustee Wolf initiated discussion about the Village requiring registration of E-Bikes in order to assist Public Safety to more effectively enforce the regulations on their use. After discussion, Trustee Wolf

reported that he and Mayor O'Brien will endeavor to draft legislation for discussion at the next scheduled Board meeting.

#### TRUSTEE REPORTS

Each Trustee gave a brief overview report on their areas of respective oversight responsibilities.

#### APPROVAL OF MINUTES

Draft copies of the minutes of the Board of Trustees meetings of September 10, 2022 and September 17, 2022 had previously been presented to the Board and posted in draft form on the Village website. Following discussion, Trustee Skerritt made a motion to adopt the minutes as presented with minor non-substantive corrections. The motion was seconded by Trustee Oppenheimer and on call it was carried according to the following action:

Motion: Trustee Skerritt

Seconded: Trustee Oppenheimer

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Against: None

Abstain: None

#### AUDIT AND APPROVAL OF ABSTRACTS

Mayor O'Brien stated that the following Abstracts, having been distributed to the Board and posted on the Village website, were presented for approval by the Village Administrator and the Village Treasurer:

General Fund Checking No. 4B in the amount of \$22,810.70

General Fund Checking No. 5A in the amount of \$141,202.91

Capital Fund Checking No. 5A in the amount of \$9,925.00

Trust & Agency Checking No. 5A in the amount of \$2,000.00

After discussion and opportunity for questions, Trustee Skerritt made a motion that the above-listed abstract(s) be approved as presented and that the Mayor be authorized to execute the warrant(s). The motion was seconded by Trustee Oppenheimer, and on call it carried according to the following vote:

Motion: Trustee Skerritt

Seconded: Trustee Oppenheimer

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Abstain: None

Against: None

#### CLOSE OF MEETING

After all having had a chance to be heard and there being no further business before the Board, Trustee Oppenheimer made a motion at 11:52 a.m. to close the meeting and to hold the next Board of Trustees meetings according to the following schedule:

- November 21, 2022 at 1180 Sixth Avenue, New York to start at 6:30 p.m., with remote connection, which will include any Public Hearings.



The motion was seconded by Trustee Kovner and on call it was approved according to the following vote:

Motion: Trustee Oppenheimer

Second: Trustee Kovner

In Favor: Mayor O'Brien, Trustee Wolf, Trustee Oppenheimer, Trustee Skerritt, Trustee Kovner

Against: None

Abstain: None