

March 5, 2012

A REGULAR MEETING of the Akron Village Board was held on this date at 7:40 p.m. Present: Mayor Carl E. Patterson, Trustees, E. Peter Forrestel, Michael R. Middaugh, Kathryn A. Capan and Brian D. Wittlinger; Village Attorney Daniel D. Shonn, Clerk Treasurer Daniel P. Borchert, Chief Richard Lauricella and Public Works Super Chief Jon Cummings

Mayor Carl E. Patterson led us in the pledge to the flag.

RESOLUTION duly moved by Forrestel seconded by Wittlinger, that the Minutes of the Regular Meeting of February 27, 2012 be and hereby are approved by the Village Board.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION, duly moved by Middaugh seconded by Capan that the audit of the bills is approved, and the Treasurer authorized to pay same in accordance with the following abstract of audit vouchers:

| | | |
|-----------------|----|-----------|
| General Fund | \$ | 5,347.17 |
| Electric Fund | \$ | 6,283.04 |
| Water Fund | \$ | 1,854.15 |
| Sewer Fund | \$ | 12,072.73 |
| Capital Streets | \$ | 7.48 |

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Wittlinger and seconded by Capan that the following Amusement Device Licenses for the Year 2012 be and hereby are renewed in accordance with the applications approved by Chief of Police Richard C. Lauricella:

| | | | |
|---------------------|----------------|--------------|---------|
| The Filling Station | 40 Main Street | Galaxy Dart | \$35.00 |
| The Filling Station | 40 Main Street | Mega Touch | \$35.00 |
| The Filling Station | 40 Main Street | Bowling Game | \$35.00 |
| The Filling Station | 40 Main Street | Pool Table | \$20.00 |
| The Filling Station | 40 Main Street | Rowe Phonon | \$20.00 |

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

PUBLIC HEARING – none scheduled

APPEARANCES – none scheduled

PUBLIC COMMENT – Resident Doug Ceisner wondered if the Board could set up a law or something to get people to remove signs that advertise for garage sales and other various sales which are located on phone poles and street corners after the sale. Further discussion was held regarding the use of a Community Calendar for posting of

these events, safety issues associated with the posted signs by Pixley's Grocery Store, and the unauthorized use of phone poles to hang signs.

PROJECT REPORTS –

Joint Facility – Super Chief Cummings reported that the DPW is settling into the new facility and are almost cleared out of 43 East Avenue.

Marshall Avenue - Super Chief Cummings reported that they are tentatively scheduling the Marshall Avenue project to start in April weather permitting. Most of the supplies have been ordered and have arrived. The project calls for a new water line and storm sewer and complete street reconstruction for Marshall Avenue from John Street to Eckerson Avenue

MONTHLY REPORTS –

Departments –

Attorney – still working on dog issues and will now add the amendment of the Local Law for Amusement Devices.

Clerk-Treasurer – The Board received the Clerk's report for February 2012, together with the March 2012 office schedule. Clerk-Treasurer Borchert reported that he met with Staples Advantage to compare office and cleaning supplies with the current supplier. Staples could save the Village an average of 17%. Mayor Patterson stated that maybe we could check with the Town of Newstead and combine orders for more savings. Clerk-Treasurer also reported that the Village Office Staff had a training session with the new Cyber Query Report making program offered through KVS Information Systems who currently support our Utility Billing and Financials.

Chief of Police – Chief Lauricella did submit to the Board the report for February 2012 and the schedule for March 2012. Chief Lauricella reported on: ACS Sport Schedule for the fall/winter is complete, All routine maintenance of patrol cars is up to date, new vehicle quotes for the budget are being gathered for the oldest patrol car and advised the Board that he will be on Vacation from April 6 to April 15, 2012.

Public Works – Chief Cummings did not have a completed report for this meeting but did summarize that the DPW is settling into the new Joint Facility and all daily operations are now preformed from that location.

Code Enforcement Officer – Absent

Elected Officials –

JUSTICE COURT REPORT – report will be submitted at the March 19, 2012 Board Meeting.

TRUSTEES – COORDINATORS

Trustee Capan – nothing to report

Trustee Middaugh –nothing to report

Mayor Patterson – reminded the Board that the Village Officials Association dinner will be held right here in Akron at the Akron House on Thursday March 15, 2012 and would like all to attend if possible. Then the following Thursday March 22, 2012 is the Association of Erie County Governments meeting in East Aurora. The Akron Fire Company will be holding their Annual Installation Dinner on March 10, 2012 where Firemen James Akin and Gerald Smith will be honored for their 50 years of service. The Mayor wanted to thank DPW employees Charles Rebmann and Thomas Whitbeck for the great job they did during the electric outage from the wind storm on Saturday. Interesting to note is that the Village electric was not at fault, but the feed from the Genesee County

grid had the issue. Lastly, the Mayor requested an executive session in regards to the employee contract.

Trustee Forrestel – reported attending the Water Wastewater Committee meeting where discussion was held regarding a review of operations and potential budget requests and Capital Projects for the Water Plant, Water Transmission, Wastewater Collections and Wastewater Treatment Plant. Mayor Patterson attended a portion of the meeting where discussion led to overall strategy of the future direction of both plants.

Trustee Wittlinger – nothing to report

OLD BUSINESS

Village Court – referendum expires Wednesday March 7, 2012

Ron Berry Memorial Fields – Attorney Shonn still waiting on information

John Street Reconstruction – National Fuel to begin the project of lowering the gas mains that run through there so the street reconstruction can begin again this spring. The contract with the construction company doing the work was extended until May 26, 2012.

Clinton Street/Eckerson Avenue Village Land – Trustee Middaugh will have another walk through with Super Chief Cummings and see if they can work in Marshall Avenue as part of the project.

Public Works Facility at 43 East Avenue – Clerk-Treasurer received updated survey of the property from Wm Schutt and Associates

208 East Avenue – Attorney Shonn requested a resolution to adjourn the date of the Public Hearing until April 2, 2012

RESOLUTION duly moved by Middaugh and seconded by Wittlinger to adjourn the Public Hearing for the demolition of 208 East Avenue from March 19, 2012 to April 2, 2012 at 7:30 pm be and hereby is approved

| | | |
|---------|---------------------|-------|
| ADOPTED | CARL E. PATTERSON | - AYE |
| | E. PETER FORRESTEL | - AYE |
| | MICHAEL R. MIDDAUGH | - AYE |
| | KATHRYN A. CAPAN | - AYE |
| | BRIAN D. WITTLINGER | - AYE |

NEW BUSINESS

RESOLUTION duly moved by Trustee Forrestel and seconded by Trustee Capan

WHEREAS, the Village of Akron Board of Trustees urges Governor Andrew M. Cuomo and the State Legislature to exempt the Municipalities of Erie County from the Federal Highway Administration’s latest Uniform Traffic Control Devices (UTCD) National Standard for Street Signs, as adopted by the State of New York; and

WHEREAS, this would apply only to local roads within the municipal jurisdictions within the State of New York; and

WHEREAS, these regulations in effect create another unfunded mandate by the State of New York and serve no advantage to State motorist; and

WHEREAS, Congressman Brian Higgins has also expressed his concern about unreasonable and unwarranted new mandates relative to signage; and

WHEREAS, per state Law, the State of New York automatically adopts whatever changes the FHWA makes to the “Manual on Uniform Traffic Control Devices”; and

THEREFORE BE IT RESOLVED, The Village of Akron Board of Trustees request the cease this practice and adopt only those FHWA traffic control standards that create no hardship on local government; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Congressman Brian Higgins, Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos and Minority Leader John Sampson, Assembly Speaker Sheldon Silver and Majority Leader Ron Canestrari and Minority Leader Brian Kolb, the Western New York Delegation and the Erie County Legislature.

ADOPTED CARL E. PATTERSON - AYE
 E. PETER FORRESTEL - AYE
 MICHAEL R. MIDDAUGH - AYE
 KATHRYN A. CAPAN - AYE
 BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Trustee Wittlinger and seconded by Trustee Middaugh

WHEREAS, the Erie County Department of Real Property Tax Services has determined that there are in excess of 73,360 tax liens within Erie County with more than \$53,529,325 in taxes owed to Erie County; and

WHEREAS, this situation is particularly troublesome in the Cities of Buffalo, Lackawanna and Tonawanda as well as in the Towns of Amherst and Cheektowaga; and

WHEREAS, other towns and villages are also struggling with vacant and abandoned properties such as Tonawanda, West Seneca and the Villages of Depew, Angola and Springville; and

WHEREAS, Erie County and its member municipalities have recognized the need to address the growing county-wide issue of tax delinquent, vacant, abandoned and foreclosed properties; and

WHEREAS, similar problems exist in many areas of New York State; and

WHEREAS, in July 2011 in recognition of this growing problem, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes any foreclosing governmental unit (FGU) to create a land bank to return tax delinquent, vacant, abandoned and foreclosed properties to productive use; and

WHEREAS, county-wide land banks have proven highly successful in Michigan, Ohio and other regions experiencing growing numbers of problem properties by successfully returning properties to productive use; and

WHEREAS, the founder of the nationally-renowned model and award-winning Genesee County, Michigan Land Bank, Dan Kildee, has urged Erie County to form a land bank and offered his assistance and expertise to Erie County; and

WHEREAS, the County Executive, the Department of Environment and Planning and Department of Real Property Tax Services are seeking ways to work collaboratively with Erie County Municipalities to address this issue; and

WHEREAS, the newly adopted state law establishes a competitive process to allow municipalities to create land banks but will only permit the formation of 10 land banks throughout New York State, with no more than five land banks being approved with the first round of applications due to Empire State Development (ESD) on March 30, 2012; and

WHEREAS, at the January 2012 meeting of the Association of Erie County Governments the issue of establishing an Erie County land bank to address the growing problem of vacant properties was raised and discussed at great length; and

WHEREAS, County Executive Mark Poloncarz tasked the County's Department of Environment and Planning and the County's Real Property Tax Department to establish a land bank working group with representatives from any interested municipality, along with representatives from the Association, to work collaboratively on an application to ESD by March 30th.

THEREFORE BE IT RESOLVED, that the Village of Akron Board of Trustees recognizes the dire need to address the growing vacant and abandoned housing crisis in Erie County; and be it further

RESOLVED, that the Village of Akron Board of Trustees supports the creation of a land bank as an essential strategy in dealing with the vacant property crisis in Erie County; and be it further

RESOLVED, that the Village of Akron Board of Trustees supports the creation of a land bank by Erie County as Erie County is the Foreclosing Governmental Unit for most of the municipalities; and be it further

RESOLVED, that the Village of Akron Board of Trustees goes on record as fully supportive of Erie County's application to Empire State Development to create a land bank; and be it further

RESOLVED, that the Village of Akron Board of Trustees strongly urges the Empire State Development to approve Erie County's application as Western New York desperately needs creative, new strategies to address the crippling problem of vacant and abandoned properties; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the Commissioner of the Department of Environment and Planning; the Erie County Director of the Department of Real Property Tax Services; the County Comptroller; the County Attorney; the Director of the Division of Budget and Management; and the Erie County Legislature.

ADOPTED CARL E. PATTERSON - AYE
 E. PETER FORRESTEL - AYE
 MICHAEL R. MIDDAUGH - AYE
 KATHRYN A. CAPAN - AYE
 BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Trustee Forrestel and seconded by Trustee Middaugh

WHEREAS, in the recent decision of Kabir v. County of Monroe, the Court of Appeals of the State of New York has by its construction of Vehicle & Traffic Law Section 1104, restricted the "reckless disregard" standard of care applicable to emergency vehicle operators while responding to an emergency to the four criteria expressed at Section 1104 (b); and

WHEREAS, the effect of such a construction is inconsistent with public policy, imposes upon emergency responders the duty to exercise the utmost care during emergency operations, imposes upon emergency responders and municipalities the treat of civil liability for what amounts to a mere failure of judgment, deters emergency personnel from acting decisively and taking calculated risks in order to save life or property or to apprehend miscreants and gives rise to practical problems as to when, how and under what circumstances the reckless disregard standard or the negligence standard is to be applied when an accident is or is purportedly attributable to multiple causes, some involving privileged acts and some not.

THEREFORE BE IT RESOLVED, that the Village of Akron Board of Trustees urges the New York State Legislature to amend the New York State Vehicle & Traffic Law, particularly Section 1104 to clearly articulate that if an authorized driver involved in a motor vehicle accident is operating an "authorized emergency vehicle" while

involved in an “emergency operation” as those terms are defined within the Vehicle & Traffic Law, the driver is entitled to the application of the “reckless disregard” standard of care; and

BE IT FURTHER RESOLVED, that to that effect, Section 1104 of the Vehicle & Traffic Law should be amended as follows:

The language of Section 1104 (a) and (b) shall be stricken and replaced with the following language:

“Unless otherwise made specifically applicable, the provisions of the title (Title VII-“rules of the road”) shall not apply to the driver of an authorized emergency vehicle when involved in an emergency operation.”; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos and Minority Leader John Sampson, Assembly Speaker Sheldon Silver and Majority Leader Ron Canestrari and Minority Leader Brian Kolb, the Western New York Delegation and the Erie County Legislature.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Trustee Forrestel and seconded by Trustee Capan

WHEREAS, the Village of Akron Board of Trustees urges Governor Andrew M. Cuomo and the State Legislature to fulfill their promise to provide significant mandate relief by gradually taking over the local share of Medicaid by supporting and passing bipartisan bill S.5889-B and A8644; and

WHEREAS, in most of the 50 states Medicaid is financed almost exclusively with state and federal tax dollars, in New York State, approximately 30% of the non-federal cost of Medicaid is paid through local taxes. In Erie County our taxpayers pay at least 85% of the local property tax toward Medicaid; and

WHEREAS, with the recently enacted 2% cap on property taxes, towns, villages and counties simply cannot continue to meet this state mandate without slashing other essential local services such as senior services, veteran’s services, law enforcement, parks and road maintenance; and

WHEREAS, New York State property taxpayers are paying the highest taxes in the Nation, State lawmakers can fund the takeover with a combination of Medicaid program reforms, state-derived savings, applying Medicaid Redesign Team reform savings to mandate relief and pursuing a federal Medicaid waiver to leverage state cost containment as well as by allowing federal health care reforms to cover New Yorkers; and

THEREFORE BE IT RESOLVED, that Governor Andrew Cuomo and the State Legislature be encouraged to give this issue top priority and a sense of urgency as we approach upcoming legislative sessions and budget considerations; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos and Minority Leader John Sampson, Assembly Speaker Sheldon Silver and Majority Leader Ron Canestrari and Minority Leader Brian Kolb, the Western New York Delegation and the Erie County Legislature.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Forrestel and seconded by Capan to proclaim Saturday March 10, 2012 James Akin and Gerald "Jake" Smith Day in the Village of Akron to celebrate their 50 years of service to the Akron Fire Company be and hereby is approved.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Wittlinger and seconded by Middaugh to approve the 2011 Akron Fire Company 2011 Service Award Program Firefighter Records listing be and hereby is approved.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Capan and seconded by Forrestel to authorize the Municipal Electric Utilities Association Executive Committee as our Voting Delegate at the Semi-Annual Meeting April 24 -April 25, 2012 to be held in East Syracuse, NY be and hereby is approved.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Wittlinger and seconded by Capan to approve the remodel of the Akron Fire Company Banquet Facility with costs not to exceed \$200,000 be and hereby is approved.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

CORRESPONDENCE

County of Erie Department of Environment and Planning Final 2012 Annual action plan

February 2012 Northern Erie Sno-Seekers Newsletter

William Schutt Monthly Project Summary for February 2012

PUBLIC COMMENT: Marilyn Kasperek from the Akron Bugle stated that subjects discussed during the work session do not go on the Minutes for that meeting. She asked if when the subject is discussed during the work session that a summary is mentioned during the regular meeting so the information will appear in the minutes.

Clerk-Treasurer Borchert mentioned that the Village Recycling Program will start again in April.

RESOLUTION duly moved by Capan and seconded by Middaugh to go into executive session regarding the employee contract at 8:28 p.m. be and hereby is approved.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

RESOLUTION duly moved by Forrestel and seconded by Middaugh to come out of executive session regarding the employee contract at 8:50 p.m. be and hereby is approved.

ADOPTED CARL E. PATTERSON - AYE
E. PETER FORRESTEL - AYE
MICHAEL R. MIDDAUGH - AYE
KATHRYN A. CAPAN - AYE
BRIAN D. WITTLINGER - AYE

On motion of Capan and seconded by Wittlinger, at 8:51 p.m., this meeting was ADJOURNED

MAYOR

CLERK-TREASURER