

Regular Meeting of the Board of Trustees of the Village of Croton-on-Hudson, New York was held on Monday, October 1, 2007 at the Municipal Building, Van Wyck Street, Croton-on-Hudson, New York.

The following officials were present:

Mayor Schmidt	Trustee Brennan
Trustee Kane	Trustee Gallelli
Trustee Konig	Manager Herbek
Attorney Feldman	Treasurer Zambrano

1. CALL TO ORDER

Mayor Schmidt called the meeting to order at 8:00 p.m. Everyone joined in the Pledge of Allegiance.

Village Manager, Richard Herbek, introduced and welcomed Marco Gennarelli, Superintendent of Public Works. Mr. Herbek advised that Mr. Gennarelli brings with him a lot of prior experience serving as the Superintendent of Highways for the Town of Mamaroneck, Superintendent of Public Works for the Village of Hastings on Hudson, and serving at the Westchester County Department of Environmental Facilities.

Mayor Schmidt advised that the Board met in Work Session with Con-Edison regarding their upcoming tree trimming program. Mayor Schmidt said that there will be a public presentation at the October 15th Village Board Meeting on this issue.

2. APPROVAL OF VOUCHERS:

Trustee Kane made a motion to approve the vouchers as follows; the motion was seconded by Trustee Brennan and approved unanimously.

General Fund	\$60,350.07
Water Fund	1,030.23
Sewer Fund	1,726.03
Capital Fund	0
Trust Fund	10,473.05
Total	\$73,579.38

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3. PUBLIC HEARINGS

Mayor Schmidt opened the Public Hearing to consider a Special Permit Application by Holy Name of Mary Church for the Montessori Pre-School.

Village Manager, Richard Herbek, read a letter from the Village's Planning Board dated July 23, 2007 stating that they unanimously agree and recommend to the Village Board that the Special Permit be granted.

There being no comments to come before for the Board, Mayor Schmidt closed the Public Hearing.

On motion of TRUSTEE Gallelli, seconded by TRUSTEE Brennan, the following resolution was adopted unanimously by the Board of Trustees of the Village of Croton-on-Hudson, New York:

WHEREAS, the Holy Name of Mary Church has applied for a special permit for the Montessori School; and

WHEREAS, this matter has been referred to the Planning Board for its recommendation and review; and

WHEREAS, the Village Board of Trustees has received a favorable recommendation regarding this application; and

WHEREAS, this project is considered an unlisted action under SEQRA and a short EAF has been prepared; and

WHEREAS, there are no other involved agencies, and coordinated review is not required,

NOW, THEREFORE BE IT RESOLVED: that based upon the short environmental assessment form the Village Board of Trustees hereby adopts the negative declaration with respect to the issuance of a Special Permit for the pre-existing Montessori School,

AND BE IT FURTHER RESOLVED: that the Village Board of Trustees hereby approves the Special Permit for the operation of the pre-existing Montessori school by the Holy Name of Mary Church subject to the following conditions:

1. The size of the school would remain the same in terms of students and teachers
2. No new playground equipment would be required
3. The special permit is valid for three years and it is the applicant's responsibility to apply for a renewal of the special permit in the final year

4. CORRESPONDENCE

- a. Letter from JoAnn Fannon, Carol Shanesy and Rosalind Morrissey reminding everyone of the Community Blood Drive to be held on Sunday, December 2nd from 9:00am to 3:00pm
- b. Letter from Jagodzinski dated September 20, 2007 requesting that something be done about discouraging seagulls from sitting atop utility poles at the Croton Harmon Train Station
- c. Letter from residents; Jane Murtaugh, Jay Forbes, Sara Mills-Cohen, Ty West, Georgianna Grant, and Holly Anzani, offering various suggestions regarding access to dogs and dog owners to Village Parks.

5. CITIZEN PARTICIPATION - AGENDA ITEMS

Tom Szoboszlai of Eklof Court, said that with respect to the Sub-Division Approval on for this evening it is his opinion that there seems to be some procedural errors on the part of the Planning Board since the Planning Board was not making a decision but rather only a recommendation. Mr. Szoboszlai said that because of the serious water issues and geological and underground water conditions SEQRA Requirements should have been met. Mr. Szoboszlai said that he is surprised that no percolation tests have been done and it is pretty clear that there has been no determination by the Village Board on any kind of environmental issues. Mr. Szoboszlai said that the provision under which they are proceeding should require that there be no additional buildable lots created as a result of the Board's action and it is clearly not what is going to happen if this resolution is approved by the Board this evening. Mr. Szoboszlai said that there is nothing in this resolution that forces them to abide by any of the plans that were presented to the Planning Board and that the real important issue is the nature of this piece of land; it is very steep and very soon after you get off of Batten Road and get onto the property there isn't a lot of room before you begin to gain a lot of height. Mr. Szoboszlai said that it troubles him that there is nothing in this resolution to prevent a structure from being built that would not comply with zoning code. Mr. Szoboszlai said that we could end up with a house that would start at a story or two above grade level and two or three stories above that and doesn't know of any area in the Village where a structure like that would fit. Mr. Szoboszlai said that if the Board is going to pass this they should put in the resolution that at a minimum the maximum height of the structure is determined from the rear of the structure not from the front of the lot. Mr. Szoboszlai said that at the last Planning Board meeting it was suggested that there be a trail on this property but that there should not be any parking at the top so that the people using the trail do not bother those at the top. Mr. Szoboszlai said that residents at the bottom of this property should also have that same protection from the Village as they give the applicant.

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Gary Yates, 62 Cleveland Drive, said that he is a dog owner and dog lover and would like to have the opportunity to walk his dog along the Hudson River and hopes that the Board will allow leashed dogs to walk along the trail that borders the Hudson River at Croton Landing.

Ann Harbeson, 5 Valley Trail, said that she is one of the owners who are asking for some relief from the sub-division process. Ms. Harbeson gave some background history advising that the wooded hillside at the corner of Batten Road and Route 129 came on the market several years ago; a developer made an offer to purchase the nine acres with hopes of packing as many houses as possible on that land. Ms. Harbeson stated that at that time she, the Ackermans and Morgans thought that this was a very bad idea and purchased the land at a considerable price to them to keep most of the hillside wooded and wild. Ms. Harbeson said that they have concluded that there is one relatively flat area which could reasonably offer a single housing site and they hoped to sell that site to defray some of the expenses they went through to keep that hillside wooded for the Village. Ms. Harbeson said that they took a lot of time and effort to define a two and half acre lot which would be buildable; went to the Planning Board to make sure that if they put this on the market, they would have allowed enough land under Steep Slopes so that a house could be built on it. Ms. Harbeson said that all they are asking from the Village Board this evening is to allow them to redraw the lines of the three current lots without forcing them to go through the further expense of a whole sub-division process which would cost them more time and money. Ms. Harbeson said that if the neighbors do not want a house built there they are welcome to buy the land and keep it however they want. Ms. Harbeson said that they are also granting an easement to the Village so that there can be a trail from Valley Trail to Batten Road so that people can have access to the Dam from the top of the road. Ms. Harbeson said that they asked that cars not be allowed to park at the top of the hill not because they do not want cars on their street but because Valley Trail is a single lane road and there is simply no parking wherein Batten Road is a regular road.

Dan Ferguson, 2 Alexander Lane, asked if the approval of the Chazen Engineering Report means that the Board is approving use of this chemical in the water. Mr. Ferguson asked if they have reviewed any scientific studies of this additive and felt that more time should be spend reviewing the studies and the residents should have freedom of choice.

Trustee Kane advised that he has reviewed studies from the EPA, documents from the City of Philadelphia, from the United States Environmental Protection Agency and has also reviewed the Environmental Expert.Com web-site.

Mayor Schmidt said that they also have information from the Chazen Engineering.

Bob Wintermeier, 42 Radnor Avenue, said that he has not made up his mind as to whether or not the adding of Zinc Orthophosphate is good or bad. Mr. Wintermeier said that an article about the island of Maui states that they had experienced problems with illnesses on the island and asked that the Board look at some of this research. Mr.

Wintermeier said that he also looked at an MSDS Report and they refer to health hazards, spill and leak procedures. Mr. Wintermeier said that we should take a look at some of these items that are on the internet to see if there are other alternatives for coating pipes.

6. RESOLUTIONS

a. On motion of TRUSTEE Gallelli, seconded by TRUSTEE Kane, the following resolution was not adopted by the Board of Trustees of the Village of Croton-on-Hudson, New York as follows:

Trustee Gallelli Aye, Trustee Kane Aye, Trustee Brennan Nay,
Trustee Konig Nay, Mayor Schmidt Nay

Whereas: the Planning Board received an application from Ackerman/Morgan and Harbeson for a 3-lot subdivision of approximately 12 acres on Batten Road and

Whereas: the application before the Planning Board was to reconfigure the existing 3 lots into different sizes. Lot 1 would become 3.4 acres, Lot 2 would become 6.1 acres and the vacant lot along Batten Road would become 2.5 acres with a proposed residence, and

Whereas: the applicant's attorney brought up the possibility of the Village Board, on the recommendation of the Planning Board, waiving the subdivision requirements as per Section 230-120(C) of the Village Code since the application did not involve additional lots, and

Whereas, the Planning Board reviewed this application at their meetings of February 13, March 27, April 10, April 24 and June 12 and the Planning Board found that the proposed lot of 2.5 acres with a proposed residence meets the requirements of the Zoning Law and the Steep Slopes Law, and

Whereas, the Planning Board recommends that a sewer easement and a trails easement be obtained in granting approval for the waiver of the subdivision requirements as per Section 230-120© of the Village Code, and

Whereas, the Planning Board after thorough consideration voted unanimously at their meeting of June 12, 2007 to recommend to the Village Board that a waiver of the subdivision requirements be approved for Section 68.17, Block 2, Lots 7, 8.1 and 9:

Now Therefore Be It Resolved: that the request for a waiver of the subdivision requirements is approved for Section 68.17, Block 2, Lots 7, 8.1 and 9 subject to the following conditions:

1. The applicant already paid the required subdivision fee and the fee shall not be waived.

2. The applicant grants a sewer easement to the Village to the satisfaction of the Village Engineer and Village Attorney.
3. The applicant grants a trail easement to the satisfaction of the Trails Committee, the Village Engineer and the Village Attorney.
4. Any individual proposing to construct a house on Lot #3 is required to apply to the Planning Board for minor site plan approval.

Trustee Gallelli stated that she is in favor of granting this waiver; this has been a very lengthy process for the applicants and the Planning Board; the discussion has been thorough and extensive on the part of the Planning Board and a great deal of give and take and consideration has been given to "Steep Slopes". Trustee Gallelli said that the intentions of the applicants to maintain a substantial portion of that hillside in its current wooded state is a substantial benefit to the Village along with the granting of a Sewer Easement to the Village and a Trail Easement which will provide an important link to our overall trail system. Trustee Gallelli said that any house that might be built there will be subject to a thorough site plan review by the Planning Board. Trustee Gallelli said that this is in the best interest of the Village and the best interest of the whole area and we are lucky to have people who are willing to make this investment.

Trustee Kane said that he agrees with Trustee Gallelli's statement; he is also supportive of the proposal and does believe environmentally this is the least intrusive.

Mayor Schmidt stated that he has some questions and concerns about this because while they are dividing it into three lots, they are not necessarily saying that they will never sub-divide the other lots that they have. Mayor Schmidt added that what is a serious concern is that the Village has no idea what will happen when the time comes and new owners take over the lots when either these owners decide to move or pass on. Mayor Schmidt said that this piece of property should be looked at in totality as a parcel of land that has the opportunity to be re-divided into a couple of lots and that he has concerns that we are circumventing the Sub-Division Law in order to accommodate splitting off one lot without any guarantee that the other lots will not be split off in the future. Mayor Schmidt said that as a Board we should be looking at the totality of what impact this may have if other houses are built and this may not be the best way to divide this piece of property for this particular lot.

Trustee Brennan said that he also has similar concerns and while he understands that the Planning Board put a lot of work into this, the lot itself seems to be in an area where there are so much drainage problems and he is not satisfied that the Planning Board is a hundred percent correct as to what is going to happen during a five or ten year storm and is not willing to waive the sub-division provisions.

Trustee Gallelli pointed out that the owners of this property could accomplish the same thing without going through this process; it would be lengthier; more steps involved but by doing lot line changes from one lot to another over time the same thing can be done

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and in which case the Village would not get any of the benefits that we are now getting with respect to the Sewer and Trail Easements.

Mayor Schmidt said that he is not a hundred percent convinced that they can do that because anyone looking at it would see that they are trying to circumvent the Sub-Division Law by doing lot line adjustments in order to sub-divide their property.

Trustee Kane said that according to the Village code they would have a legal right to ask for a waiver.

Mayor Schmidt said that they have a right to ask for a waiver but the question is, does this have an impact on other properties in the Village and would other owners want to do the same thing? Mayor Schmidt said that we are left in this Village with marginal land that can be developed and given our current laws and environmental laws it is up to us to do the right thing and to do a total look at this property not just a partial look.

Trustee Kane said that he believes that the Planning Board has looked at this very thoroughly and they have voted unanimously in favor.

Mayor Schmidt said that he understands that they have put a lot of work into this and truly appreciate their work but it is the Board's decision.

Trustee Gallelli said that if the Board does not grant this waiver the potential exists for far more environmental damage and many additional houses that would not occur with the passage of this resolution.

Mayor Schmidt asked Trustee Gallelli if the Village has any assurance from any of the property owners that they are not going to sub-divide later on because they do have that possibility.

Trustee Gallelli said that anyone with enough land has that possibility of sub-dividing but this is a waiver that is not calling for additional houses.

Mayor Schmidt said that everyone has readily agreed and admitted that there is potential for more houses so why aren't we looking at the total now instead of doing this and then leaving it to a future Board to then figure it out.

Trustee Konig said that it appears that these property owners are well intentioned but since this issue has come up she has heard from other property owners who would also like a Sub-Division Waiver. Trustee Konig said that circumventing the Village Code could cause more grief in the long-run. Trustee Konig advised that their attorney said that the owners can go through this process without our approval and accomplish what they want to accomplish and if this is so maybe it is not up to this Board to give this waiver.

Trustee Brennan said that the Village set up a Steep Slopes Law to try to protect properties down from heavy slopped areas and this is one of the heaviest slopped areas in the Village and it is his opinion, given where this property is, we should absolutely at the minimum not waive any sub-division proposal.

b. On motion of TRUSTEE KONIG, seconded by TRUSTEE BRENNAN, the following resolution was unanimously tabled by the Board of Trustees of the Village of Croton-on-Hudson, New York:

WHEREAS, the Village is considering a corrosion control program for its water distribution system; and

WHEREAS, the purpose of a corrosion control program is to help reduce incidences of brown water, reduce lead and copper levels, and increase the life span of the distribution system; and

WHEREAS, a corrosion control program is currently being used by 15 communities in Westchester and is particularly helpful for communities with older distribution systems; and

WHEREAS, corrosion control was the subject of a work session on May 14, 2007 and a public information session on September 17, 2007; and

WHEREAS, the Village Board of Trustees approved a resolution on July 16, 2007 authorizing Chazen Engineering to proceed with a number of action items including corrosion control design, a review of North Highland tank water quality improvements, and wellfield expansion exploration,

NOW, THEREFORE BE IT RESOLVED: that the Village Board of Trustees hereby authorizes Chazen Engineering to proceed with the design of a corrosion control program for the Village's water distribution system.

Mayor Schmidt said that these are procedures and additives used throughout the County and we are one of the few communities that do not currently use any corrosion control procedures in our water system. Mayor Schmidt said that the most compelling reason for doing this is the fact that our lead levels have crept up over the years and that lead is far more problematic than any minute amount of zinc orthophosphate that we would add to our water. Mayor Schmidt stated that brown water has been a problem throughout the Village; we have seen some reduction after the Village spent close to two million dollars replacing the water system in the Harmon area but we cannot afford to do this throughout the Village at this time. Mayor Schmidt said that the biggest concern is that the lead and copper levels have increased and we need to do something or the Village will be forced to do something if the levels continue to increase.

Trustee Kane said that he had done some research and has questions about the zinc compound itself and whether this material would precipitate out of solution into our drinking water supply which might add this heavy metal to our water. Trustee Kane said that copper pipes inhibit bacteria growth and he is wondering if lining pipes with zinc orthophosphate inhibits the benefits of the copper pipe itself. Trustee Kane said that the Material Safety Data Sheet that Mr. Wintermeier brought before us states that this is hazardous material according to the New York State Department of Transportation in addition to safety issues for our worker's because of its corrosive and acid nature. Trustee Kane said that Village water is treated at the Westchester County Water Treatment Plant in Ossining and has some questions concerning water treatment there. Trustee Kane said that according to "Environmental Expert.Com" there have been problems with other municipalities who run Waste Water Treatment Plants in that the zinc that is precipitated out at the waste water site can cause problems with the waste water process itself. Trustee Kane said that what he is seeing on this web-site is that the zinc interferes with the natural processes at waste water sites and if our water goes to Ossining to be treated, will this affect the effluent of the water coming out of this plant and affect the quality of the Hudson River. Trustee Kane said we are talking about very small amounts of zinc that have interfered with the waste water treatment process.

Mayor Schmidt said that the Chazen Report indicated that the amount is so negligible and asked Superintendent of Public Works, Marco Gennarelli, if he has heard that the County of Westchester is having any problems with zinc orthophosphate since most municipalities in the County of Westchester are already using this system.

Mr. Gennarelli said that he is not aware of any problems.

Village Engineer Dan O'Connor said that he has not heard of zinc interfering with the process. Mr. O'Connor said that any phosphate that is put in our system will go through the waste water treatment plant and into the Hudson and does not believe there are any DEC effluent limitations that require phosphorous removal for discharge into the Hudson River. Mr. O'Connor said that there are hazards for working with this chemical and employees will be required to go through proper training on the use of safety gear which is similar to what we do now.

Trustee Brennan asked Mr. O'Connor if he was satisfied with the amount that will be going into the drinking water.

Mr. O'Connor said that these are very low levels; the EPA has looked very closely at the health affects of chemicals in the water and Congress has also come up with a list and zinc is not even on the primary list but rather on a secondary list as having no health affects and is not regulated from a health standpoint. Mr. O'Connor said that at these minute amounts there is not a health factor but rather just a slight metallic taste in the water.

Trustee Brennan asked what would happen if we do not take the steps now.

Mr. O'Connor said that right now our water is corrosive and is having an affect on our distribution system. Mr. O'Connor said that the corrosive water dissolves metals and these metals then go into our system having the effect of increasing our lead and copper levels. Mr. O'Connor said that the Village is currently on a three year cycle of testing lead and copper and while we have no control as to what is happening in private homes with their plumbing systems we do have control with our system. Mr. O'Connor said that we do not want to be in a position three to six years from now of taking a sample and all of sudden find high lead levels. Mr. O'Connor said that at the time the Village would be mandated to treat the water.

Trustee Kane said that the bottom line is that zinc can have a toxic effect on the waste water treatment process and has documentation from the EPA that there are other alternatives such as using Phosphoric Acid.

Mayor Schmidt stated that the proposal in front of them this evening is what Chazen has recommended based on their chemical analysis of our water that would solve or correct some of the problems that we currently have.

Mr. O'Connor said that he can certainly speak with Ossining to see if this will cause a problem with their sludge processing system.

Mayor Schmidt said that we all eat zinc; it is in our food; people take vitamins that have zinc in it and there are many ways that zinc gets into our waster water treatment systems and what we are adding is negligible.

Trustee Gallelli said that she knows very well and understands the value of having an anti-corrosion system for the distribution system but she also understands the comfort level of our residents have to be extremely high anytime you are adding something to our water supply and the questions and points that have been raised are worthy of being answered. Trustee Gallelli said that we have to take care of our lead and brown water problems but we do not have to do it this week; we can get answers to some of these questions and raise the comfort level.

Mayor Schmidt said that Chazen has given us answers to those questions but if the Board prefers postponing this resolution to get further information from Chazen that is perfectly fine.

Trustee Brennan said that he doesn't see how it will hurt getting more information and asked that the information be put out to the public.

7. CITIZEN PARTICIPATION - NON-AGENDA ITEMS

No one addressed the Board.

Mayor Schmidt closed Citizen Participation on Non-Agenda Items

8. APPROVAL OF MINUTES:

Trustee Brennan made a motion to approve the minutes of the Executive Session held on Monday, September 17, 2007. Trustee Kane seconded the motion. The Board voted unanimously to approve the minutes

9. REPORTS

Village Manager, Richard Herbek, advised that the American Thyroid Association supports Potassium Iodide distribution for radiation emergencies and recommends that it be a part of an emergency plan. Mr. Herbek announced that since the Village is a distribution point, there is a very simple process to come to Village offices to receive these tablets.

Mr. Herbek advised that the New York Power Authority will be raising power rates 18.1% over the current rates effective January 1, 2008.

Mr. Herbek advised of the following events for October; Fire Fair October 7th, Rotary Annual Car Show October 14th, Metro North Open House on October 20th, Harry Chapin Run Against Hunger October 21st.

Village Treasurer, Abe Zambrano, advised that the Village completed their annual audit last week; it went well and will have numbers for the Board once the report is filed.

Trustee Konig said that with surrounding communities having already gone into some sort of corrosion control program, the Village is not blazing the trail but rather bringing up the rear and as was stated this evening we may be in a position where the Village is mandated to do this because of the lead content in our water creeping up. Trustee Konig said that she certainly thinks that residents will find that due diligence has been done on this and we have all looked at it very carefully.

Trustee Konig stated that several citizens have expressed concern that when they make a complaint regarding our codes they are not being enforced. Ms. Konig said she wanted everyone to know that the Village takes your concerns very seriously and that moving forward when we are told about a problem, Village departments will take care of them in a timely manner.

Trustee Kane said that approximately two weeks ago our Police Department responded to complaints from pedestrians trying to cross the southbound exit ramp of Route 9 and Croton Point Avenue. Trustee Kane advised that Chief Coxen placed an officer there to direct traffic at the base of the ramp for a few days but it created traffic backups on Route 9, Riverside Avenue and Croton Point Avenue. Trustee Kane said that in response to

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commuters being late for their trains, Chief Coxen pulled the officer and has placed another traffic officer at the base to direct traffic when a pedestrian crosses and it seems to be working well. Trustee Kane advised that the Chief has reached out to Dave Parker, New York State Department of Transportation to help devise some possible solutions and Richard Stiller from the Westchester County Department of Transportation to discuss the possibility of moving the County Bus Stop from under the Route 9 overpass southbound entrance to Route 9.

Trustee Gallelli said that she concurs with Trustee Konig that a great deal of research and work has been done by both the staff and Chazen already. Trustee Gallelli said that when issues are raised with something as important as our water supply we should take the time to explore all of those points and is sure that we will arrive at a corrosion control system that will satisfy everyone and be in the best interest of all.

Trustee Gallelli reminded everyone that there have been some changes speed limits from 45 mph to 40 mph on 9A in the Village from the northern part where it borders the Town of Cortlandt coming down into the Village and from 55 mph to 45 mph on Route 129 leaving the Village from the Village limit through the Town.

Trustee Gallelli reported that on September 19th the Economic Development Committee had a very productive meeting with property owners and they are continuing to work; there is a lot of positive response and direction for the future.

Trustee Gallelli advised that anyone wanting to participate in the upcoming Window Painting Program to please pick up applications at the various stores that are participating in the program and return them to the Recreation Office by October 12th.

Trustee Gallelli said that a Ribbon Cutting Ceremony took place at our new Teen/Game Room at the last meeting and there is a Monday night drop-in for teens in grades 9 through 12 from 7:00pm to 10:00pm.

Trustee Brennan said that he is convinced that what we are going to add to the water is safe but we have to make sure that the residents are convinced of that also. Trustee Brennan asked everyone to continue to cheer on the football team.

Mayor Schmidt welcomed Marco Gennarelli and said that his first challenge will be dealing with the Village's leaf pickup.

Mayor Schmidt reminded everyone that Con-Edison will be doing a presentation on their tree trimming program at the October 15th meeting.

Mayor Schmidt advised that the Village has been notified that they can attend and testify in front of the Railroad Sub-Committee on Transportation and he will be going to Washington D.C to address this Committee about the general issue of Waste Transfer Stations trying to open up as railroads. Mayor Schmidt said that the Village Attorney and our Special Counsel will help us prepare what we are going to say in front on this

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Committee. Mayor Schmidt said that he is very excited that this process is continuing and that Congress is listening and that we will have the opportunity to address them and let them know what our problems are. Mayor Schmidt said that hopefully they will rectify some of the issues that the Village has with these kinds of facilities trying to open in Croton.

There being no further comments to come before the Board, a motion to close the meeting at 9:50pm was made by Trustee Brennan and seconded by Trustee Konig. Motion was unanimously approved.

Respectfully submitted,
Board Secretary

Pauline DiSanto, Village Clerk