

**VILLAGE OF CATTARAUGUS**  
**14 Main Street, Cattaraugus, NY 14719**

**Regular Board Meeting**  
**July 8, 2019**

**PRESIDING:** Wirt Smith, *Mayor*

**PRESENT:** *Trustees:* George Borrowdale, Diane Wienk, Anthony Nagel, Douglas Johnson; Eugene Doucette, *Treasurer;* Jon Wolfe, *DPW Superintendent;* Tom Patterson, *DPW Deputy Superintendent;* Dan Waasdorp *Police;* Frank Watson, *Code Enforcement;* Betsy Wolfe-Widrig, *Deputy Clerk;* Tamara Stallard-Mormile, *Recording Secretary*

**VISITORS:** Jake Alianello, *MDA Engineers;* Eileen Williams, *Town Water District;* Jason Crawford, Bob Botsford, *Village Residents;* Thersa Wick, *Events coordinator*

**CALL TO ORDER:**

Mayor Smith called the meeting to order at 7:04 p.m. The Pledge of Allegiance was recited.

**Resolution #17– 2019/2020 Approval of Minutes**

On a motion by Trustee Borrowdale, second by Trustee Johnson, the following resolution was

**ADOPTED** AYE 4 Nagel, Wienk, Johnson, Borrowdale  
NAY 0

**RESOLVED,** To approve the June 10, 2019 minutes.

**PUBLIC COMMENT**

Eileen Williams wants to wait until the village attorney arrives.

Bob Botsford: Any word on what is happening with the bridges? Nobody has any concrete knowledge as they are town and county bridges.

Jake Alianello: The contractor finally got the work permit from the state. The contractors are getting ready to start. A Surveyor will be going out soon to survey for the Mayo line and the Cobo line.

**REPORTS:**

1. Code: Permits have picked up. He has issued a few stop work orders. The lawyer arrived at approximately 7:22 and there was a very lengthy discussion regarding the proper procedure to clean up abandoned properties. Invoices should be made and property owners billed for work the village employees do on the properties. Abandoned cars cannot be touched. Include everything in the invoice. Take the property owner in front of the judge.

Eileen Williams: The easement on her property was never in her name. Once the trailer was deeded to her, the water rights ceased. Linda Blackmar and Joe Kaye need to be on the deed for the water rights. Legally, her water rights ceased the day she became the property owner. Ms. Williams claims she had verbal agreements with every administration until now. She does not currently have a meter and a meter needs to be installed immediately. This new meter will cost the village tax payers approximately \$900.00. As of right now, Ms. Williams has no right to free water, unless the village board grants her this right. Legally, she is not entitled and never was entitled to free water, even if she has received it in the past. The village board can grant her free water if they so choose, but he does not recommend a motion for this. Mr. Musacchio stated that giving her free water would not pass any audit, but questioned the Mayor when the Mayor said that the village had already been questioned about granting residents free water. There is already a written easement agreed upon. Ms. Williams cannot renege on it. The village has honored the easement. Trustee Wienk asked about the easement and how it was written. She asked if the easement should have been rewritten once Ms. Williams took over ownership of the property. Mr. Musacchio explained that once the property was sold, the easement still stood, but the water rights did not. The water rights were strictly for Linda Blackmar and Joe Kaye. Ms. Williams told Mr. Musacchio that she went to the village and requested that the water rights continue, and each administration allowed it. Technically the village does not have to do that. If someone were to ask why this free water has been granted, the village can explain that there was an agreement, although Ms. Williams was never on said

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agreement. Doug Johnson commented that water is not free. With all the improvements and maintenance, it does become costly. Every easement previously held where the property changed hands has been nullified and that set a precedent on how to proceed. But the other properties did not go to family, this property did. It's a catch 22. Mr. Musacchio said that the village can continue to provide free water, or they can charge her for the water. The village does not have to make a motion on it, but they can. They can cut her off legally, but they don't have to. But they can. The village residents are paying for these improvements with their taxes. The easement still stands, the water rights do not. The easement stands forever, the water rights ceased once the property changed hands. The board does not need to take action to end the water rights, as the board did not take any action when the Blackmar property was sold. The water rights just ceased. But if the village board wanted to give her a definite decision, they can take a vote on it. It comes down to whether or not the village board wants to continue to honor the verbal agreement. Trustee Nagel believes that something formal would have to be done to prevent this same problem in the future. Mr. Musacchio said that they would probably be smart to vote on honoring any verbal agreements, but there is not a need to vote on any discontinuation, because the easement is a written agreement, black and white. Mr. Musacchio said that legally the water rights ceased when the property changed hands. The village can cut her off and no have to take any action. The village can continue to provide free water without taking any action. Former trustee Jason Crawford commented that he remembers sitting with Ms. Williams when he was new to the board and telling her that he did not know what would happen with her water because she was not listed on the easement. Mayor Smith commented that the former mayors may have promised to honor an easement, but they really did not have any right to do so, as there was no easement to honor. Ms. Williams stated that the former mayors have agreed to send in letters attesting to the fact that they honored an easement. Nothing was ever done in writing, it was always a verbal agreement. The lawyer said the village could do nothing and wait to see if anyone checks up on it, and deal with it if that ever happens. The board members are concerned that not dealing with it now and correctly will cause more issues in the future. The lawyer stated that if you think that everyone follows the rules to the letter, he can say right now that the City of Buffalo does not. And sometimes a grant is such a pain to meet the criteria that it is easier to not use them. And some of them have a lot of strings attached. The village has been told several times to find easements and to clean them up and make sure everything is done legally, which is how these easements were found and all except this one have been dealt with. When asked if he was representing the village, Mr. Musacchio said yes. He is the village lawyer. And as the village lawyer he said to shut her off. He does not recommend any new written agreements with Ms. Williams. The easement already exists. There's no need for anything new. The current easement stands. You have to do what is fair and what is right. That is a discretionary call, according to Mr. Musacchio. Everyone will have an opinion on the decision, no matter what decision is made. The village can vote on it. If it passes, it passes. If it fails, it fails. The Mayor is concerned about who all is affected by the situation. His first concern are his constituents, the village tax payers. Mr. Musacchio agrees that the board is there to protect the village. Technically, the original easement ceased when the property changed hands back in the 1990's plain and simple. Back then, the village and the town and Ms. Williams were all represented by the same lawyer. The village board has been told to take care of any issues that could possible interfere with funding. This is simply part of that process. This needs to be resolved by the next water billing. A meter must be installed first.

2. Treasurer: Otto and East Otto need to be sent vouchers for the swim program. Wire transfers need to be signed and brought to him in the morning.
3. DPW: Addressed 2 complaints. The stump has been ground. There is nothing he can do about excess water. The flag poles are up. Nothing new has been discussed about the senior building. The DPW taking care of property that has been abandoned by the owner will cost the property owner \$110.00 per hour.
4. Police: Brandon Snyder has returned to work for the village. Leavenworth Street will be patrolled more heavily.

#### **Resolution # 18 - 2019 / 2020 Property Maintenance Fee**

On a motion by Trustee Johnson, second by Trustee Borrowdale, the following resolution was

#### **ADOPTED**

Aye 4           Wienk, Johnson, Nagel, Borrowdale

Nay 0

**RESOLVED**, to charge property owners \$110.00 per hour for property maintenance.

5. Thresa Wick: Will the village be helping with music and porta potties this year for the Labor Day event? The Mayor stated that the band is already booked, but he will reach out and confirm. The porta potties will be paid for by the village as well. The event was discussed.
6. Clerk: The state has mandated that everyone adopt the new Sexual Harassment Policy.

#### **Resolution # 19 - 2019 / 2020 Policy Against Harassment and Discrimination**

On a motion by Trustee Borrowdale, second by Trustee Nagel, the following resolution was

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**ADOPTED**

Aye 4           Wienk, Johnson, Nagel, Borrowdale

Nay 0

**RESOLVED**, to adopt the NYS Sexual Harassment Policy.

**Resolution # 20 - 2019 / 2020 Policy Against Harassment and Discrimination Compliance Officers**

On a motion by Trustee Borrowdale, second by Trustee Wienk, the following resolution was

**ADOPTED**

Aye 4           Wienk, Johnson, Nagel, Borrowdale

Nay 0

**RESOLVED**, to appoint Anthony Nagel and Betsy Wolfe-Widrig as the compliance officers with regard to the policy against harassment and violence.

Trainings will be set up as soon as possible.

**OLD BUSINESS:**

Nobody has any recommendations for the open Zoning Board position.

**NEW BUSINESS:**

Informational meeting for discussion of police department.

**Resolution # 21 - 2019 / 2020 Union Contract**

On a motion by Trustee Wienk, second by Trustee Borrowdale, the following resolution was

**ADOPTED**

Aye 4           Wienk, Johnson, Nagel, Borrowdale

Nay 0

**RESOLVED**, to accept the changes made to the current Union Contract.

**Resolution #22– 2019/2020 Approval of Abstract**

On a motion by Trustee Johnson, second by Trustee Borrowdale, the following resolution was

**ADOPTED**   AYE 4       Wienk, Nagel, Johnson, Borrowdale

NAY 0

**RESOLVED**, to approve the abstract.

**ADJOURNMENT**

**Resolution #16 – 2019/2020 Adjournment**

On a motion by Trustee Borrowdale, second by Trustee Johnson, the following resolution was

**ADOPTED**   AYE 4       Wienk, Johnson, Nagel, Borrowdale

NAY 0

**RESOLVED**, To adjourn the meeting at 9:51 pm.

Respectfully submitted,

Tamara Stallard-Mormile  
Recording Secretary  
Village of Cattaraugus Board of Trustees

**NEXT MEETING:**

Regular Board Meeting August 12, 2019. 7:00 pm