SPECIAL VILLAGE BOARD MEETING
JUNE 18, 2008

A special meeting of the Village Board of Trustees was held June 18, 2008 at 5:30 p.m.

Present: Mayor Richard Klancer
Trustee Barb Nephew
Trustee John Certis
Trustee Dale DeCarlo
Trustee Carol Sheibley

Media Present: Mary Pankow, Gowanda Pennysaver

Others:Village Clerk Kathy Mohawk, Village Attorney Deb Chadsey, Sherill Henry, EPA, George Shanahan, Esq., Henry Killeen, Esq., representing the Wilhelm Estate, Public Works Superintendent Mike Hutchinson

The three main items to be discussed at this meeting were:

1. Approve the agreement with the Peter Cooper PRP's
2. Approve the $53,000 UDAG loan to Healthy Community Alliance
3. Approve the site plan for Academy Place

While waiting for the attorneys to arrive, Trustee Sheibley reported that there were six deficiencies in the application which was submitted for the Welcome signs. An authorization to allow the Mayor to sign is necessary. The state voucher needs to be submitted again, with #4 and #8 signed. Three sentences are required to authorize Nicole Cardis to assert Appendix B and Appendix C to our documents. The Village needs to send our procurement policy along with a letter explaining the procurement policy.

Motion 96-08. Motion by Trustee Sheibley, seconded by Trustee Certis to complete and add the additional items for the grant application to the Office of Parks, Recreation and Historic Preservation for the $2,000 from Legislator Mills for the Welcome to Gowanda signs. Motion carried 5-0.

Village Clerk Mohawk presented two applications for permits: one for the Disabled American Veterans Forget-Me-Not Drive from July 2 through July 6 and one for the Tri-County Memorial Hospital Auxiliary Tag Day sale on June 20, 2008. Both of these events will take place before the next Board meeting.

Motion 97-08. Motion by Trustee Nephew, seconded by Trustee DeCarlo to approve the permit applications of the Disabled American Veterans and the Tri-County Memorial Hospital Auxiliary. Motion carried 4-0. (Mayor Klancer was not present for the vote).

Public Works Superintendent Hutchinson presented a letter from HSBC Bank indicating that Healthy Community Alliance was denied a loan. The environmental items have been done. Public Works Superintendent Hutchinson indicated the FONSI (Finding of No

Significant Impact) was received from NEPA. It was not necessary as this is an unlisted action. The SEQR is done for the negative declaration from the Erie County Department of Environment and Planning.

Motion 98-08. Motion by Trustee DeCarlo, seconded by Trustee Nephew to approve the $53,000 UDAG loan to Healthy Community Alliance. Motion carried 5-0.

Motion 99-08. Motion by Trustee DeCarlo, seconeed by Trustee Certis to approve the site plan for Academy Place. Motion carried 5-0.

Regarding the Peter Cooper site, there was much discussion about the project. Public Works Superintendent Hutchinson indicated there is an easement agreement, an escrow agreement which will determine how much money the Village receives and an escrow agreement for Operation & Maintenance. There will be a $234,000 lump sum payment in cach to be set aside in a trust to be used for the Peter Cooper site. The Village will also receive $70,000 for upfront administrative costs. He advised that none of the intended purpose of these agreements was changed from the original documents which the Board members reviewed.

Trustee Sheibley asked about the necessity of a signature from GARC. Public Works Superintendent Hutchinson advised that Gowanda Area Redevelopment Corporation will take ownership of the property and the Village of Gowanda is going to do the work to facilitate development of a park. The Village will have control of the money which will be held in a separate trust fund to be used solely for that purpose. This is for a period of five years, after which a review will be conducted to make sure there will be sufficient funds in the trust to continue the maintenance of the site. There will be $170,000 in that account to make sure money is available to keep monitoring the site.

Village Attorney Chadsey indicated that the cost is a calculation of what it would cost for 30 years which is determined by PRP's. After 5 years the Village will look at it again. The administrative cost of the escrow agent was neglected in the figuring.

Village Attorney Chadsey advised there are two trusts in this case. The PRP's will do some monitoring work and set up their own trust with the EPA. After 5 years the EPA will determine if the remedy is working. After 5 years if there are problems, the PRP's will have to deal with fixing them. Village Attorney Chadsey advised that part of the remedy calls for gas venting off the landfill. This could be a potential issue for the Village.

Village Attorney Chadsey advised that the present value estimate of 30 years of monitoring is $170,000. In the Consent Decree, the PRP's added an additional $25,000. Any excess funds after review will be put in a separate escrow account set aside for park improvements.

Public Works Superintendent Hutchinson advised that this money could be used as a match for any park grants. All the money, however, can only be used for eligible expenses to develop the park for public space.

Village Attorney Chadsey strongly advised that the Village adopt a resolution to put the additional $70,000 in a separate account. GARC will hold the title to the property and lease it to the Village for $1.00 per year. The Village will need to fund the GARC officers' insurance in exchange. Village Attorney Chadsey advised taking the amount of the insurance out of the $70,000 and setting it aside immediately.

Public Works Superintendent Hutchinson advised that grant funds are available. He indicated that he sent a copy of the grant request to the Transportation Enhancement program and was advised it would be a fundable project.

Henry Killeen stated that the Wilhelm family and the rest of the PRP's are excited about the project. He also advised that the Village had excellent representation from Village Attorney Chadsey on this project. Mr. Killeen thanked George Shanahan and Sherell Henry for being the driving force behind the project.

Mayor Klancer thanked Public Works Superintendent Hutchinson and prior Village Attorney Bruce Musacchio for beginning the work on this project.

Village Attorney Chadsey reminded the Board members that this is just the beginning of the process.

The first document is the Agreement between the EPA and the Village. The Village is not responsible for this site. This document serves as a vehicle for the Federal Government to give the Village protection from claims for contribution and from the EPA. Public Works Superintendent Hutchinson indicated that this document means that the Village is making a commitment to the EPA to do certain things and that they will be done according to standard procedures. The Village will monitor the discharge and will take care of the ordinary maintenance. Page 13, Section 8, lists the work to be performed. Village Attorney Chadsey informed the Village Board that there are penalties for not doing what is required. This is a 30 year commitment so the record keeping procedures need to be in place.

<u>Motion 100-08.</u> Motion by Trustee Certis, seconded by Trustee DeCarlo to sign the United States Environmental Protection Agency Agreement and Order on Consent, Docket No. 02-2008, to be completed. Motion carried 5-0.

The next agreement is the Site Agreement. This is the agreement between the Village and the PRP's. It sets out the agreement on the allocation of work and everything the PRP's have promised to do. Under 2.2 Site Enhancement, it identifies what the PRP's will do at their own expense, including the debris removal, the northwest utility trench and the southwest utility corridor. The Village will put backfill material at the site, put topsoil over the site, and seed it. On page 6 at 2.2.8, it states $234,864 will be given to

the Village for this project. The Village will also commit to keep the site secure during the construction process and will cooperate with the government and the PRP's. The site can only be used as a park. The PRP's set up a trust for the work that they will be doing during the first 5 years. The PRP's are protecting the Village from liabilities related to the remedy. The liability for the park is the Village responsibility. Village Attorney Chadsey advised that any disputes will be arbitrated, not litigated.

Motion 101-08. Motion by Trustee Certis, seconded by Trustee Nephew to authorize the Mayor to sign the Site Agreement. Motion carried 5-0.

The next document is the Escrow Agreement. This is the document that serves as the trust for the Village park money. This document says the Village will received $234,864 which will be held in a segregated account. There is a disbursement provision: $174,000 is allocated to back fill, $51,000 is allocated to topsoil and $9600 is allocated to seed. There is an additional provision D on Page 3. If the Village receives funds from somewhere else to do any of these items, these allocated funds can be used on something else for the park.

Motion 102-08. Motion by Trustee DeCarlo, seconded by Trustee Nephew to authorize the Mayor to sign the escrow agreement. Motion carried 5-0.

The last document to sign tonight is the Leachate Treatment Agreement. Part of this whole deal involves the Village treating the groundwater leachate collected at the site. This is the same type of relationship the Village has with the OMRDD and the Department of Environmental Conservation. Every protection the Village has in every other SIU agreement is also in this one.

Motion 103-08. Motion by Trustee Certis, seconded by Trustee DeCarlo to authorize the signing of the Groundwater Leachate Treatment Agreement. Motion carried 5-0.

Public Works Superintendent Hutchinson advised the Village Board that there are some other agreements which are not yet finalized.

Motion 104-08. Motion by Trustee DeCarlo, seconded by Trustee Nephew to adjourn the Special Village Board meeting at 7:40 p.m. Motion carried 5-0.

Respectfully submitted,

Kathleen V. Mohawk
Village Clerk
(additional notes taken by Public Works Superintendent Hutchinson)