

VILLAGE OF MONROE
BOARD OF TRUSTEES MEETING
Tuesday, October 18, 2022
(www.villageofmonroe.org)

The meeting of the Board of Trustees was held on Tuesday, October 18, 2022 at 7:00 PM in the Boardroom of the Village Hall, 7 Stage Road, Monroe, New York. Mayor Neil Dwyer called the meeting to order and led in the pledge to the flag. Emergency exits were announced.

Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl and O'Connor
Also present: Attorney Terhune, Clerk Zahra, and Police Chief Guzman

PROCLAMATION: JOSEPH MANCUSO

***WHEREAS**, the Village of Monroe wish to express our deep appreciation, and respect to Joseph Mancuso, as we honor him for his thirty-four years of dedicated service to Smith's Clove Park, the Village of Monroe, and the community at large; and*

***WHEREAS**, Joe has served in many capacities on the Smith's Clove Park Commission from 1988 through August 2022, as a Village Commission Member, Admin Chairperson, Park Chairperson, and then as the Park Recreation Director; and*

***WHEREAS**, Joe has established many youth programs, in addition to directing the Summer Youth Activity Camp, affectionately known as YAC for many years; and*

***WHEREAS**, Joe served as a Trustee from May 1994 through April 1995, becoming Mayor on April 3, 1995 through March 31, 2006; and*

***WHEREAS**, the contributions made by Joe will forever be remembered, as a young man who was born and raised in our Village, and stepped up to serve his community; and*

***NOW THEREFORE**, be it proclaimed that the Village Board of Trustees, on behalf of our residents and community, wish to recognize Joseph Mancuso for his many contributions and wish him the very best in his well-earned retirement.*

In witness I, Neil S. Dwyer, Mayor of the Village of Monroe, have hereunto set my hand and caused to be affixed the seal and signature of the Village of Monroe on the eighteenth day of October, two thousand and twenty-two.

MINUTE APPROVAL: OCTOBER 4, 2022 BOARD MEETING:

On a motion by Trustee Karl seconded by Trustee O'Connor, the Minutes of the October 4, 2022 Board Meeting were approved.

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

BUDGETARY TRANSFERS / MODIFICATIONS:

RESOLVED, the Board of Trustees authorizes the Treasurer to make the following fund transfers / modifications to balance the budget:

From:	Description	To:	Description	Amount	
None					
Budget Modifications					
A.2012	Recreation Concessions	A.9950.960	Transfers Crane Park Rev	43,792.50	Raise Revenue/Expense lines re Carnival revenue to reserve
A.2260	Police Services	A.3120.472	PD Education	1,035.00	Raise Revenue/Expense lines re EMT training
A.2665	Sales of Equipment	A.3120.250	PD Other Equipment	1,345.00	Raise Revenue/Expense lines re equipment sold
A.3389	Other Public Safety	A.3120.250	PD Other Equipment	10,109.00	Raise Revenue/Expense lines re body-camera equipment grant

On a motion by Trustee Ferraro, seconded by Trustee Karl, and carried.

EVENT APPLICATION – PINE TREE ELEMENTARY PTA DECEMBER DASH:

An event application was submitted by AnnMarie Colabella-Kaiser, Pine Tree Elementary PTA, to host a December Dash event on Saturday, December 10, 2022 from 10:30AM to 12:30PM at Pine Tree Elementary School, 156 Pine Tree Road, Monroe. The Dash will be a free 1K run (.62 miles) for students and families of Pine Tree Elementary that will begin and end at Pine Tree School utilizing Pine Tree Road and Clinton Court. All necessary insurance documents have been provided and the event application has been reviewed by the DPW, Building Department and Police Department. The Monroe Police Department will provide one (1) Officer on three (3) hours of overtime to assist with pedestrian traffic during the event. The estimated cost of additional police services is \$205.50, which they are responsible for paying 20%, or \$41.10. Ms. Colabella-Kaiser submitted a letter requesting the Board waive the \$50.00 application fee due to them being a not-for-profit.

RESOLVED, the Board of Trustees approves the event application submitted from the Pine Tree Elementary School PTA to host a "December Dash" on Saturday, December 10, 2022 beginning at 10:30AM with a free 1K run (.62miles) for students and families of Pine Tree Elementary that will begin and end at Pine Tree Elementary, 156 Pine Tree Road, Monroe, utilizing Pine Tree Road and Clinton Court.

On a motion by Trustee Behringer, seconded by Trustee Karl

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

RESOLVED, the Board of Trustees hereby waive the \$50.00 application fee due to their not-for-profit status.

On a motion by Trustee Behringer, seconded by Trustee Karl

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

PAYMENT AUTHORIZATION – FINAL PAYMENT – ARGENIO BROS. LAKE STREET REHABILITATION PROJECT:

RESOLVED, the Board of Trustees accepts the recommendation of Village Engineer, Creighton Manning, and authorizes Mayor Dwyer to sign the voucher for the final payment submitted by Argenio Bros., 2 Argenio Drive, New Windsor, NY 12553, for the Lake Street Rehabilitation Project in the amount of \$150,000.00.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

CONTINUED DISCUSSION: MORATORIUM HARDSHIP WAIVER REQUEST – 208 BUSINESS CENTER, LLC – SBL: 201-3-3, 201-3-4, 201-3-7, 201-3-8:

(Minutes 8/16/22)

A request has been submitted by Whiteman, Osterman, & Hanna LLP for a moratorium hardship waiver for the 208 Business Center, LLC including SBL's: 201-3-3, 201-3-4, 201-3-7, and 201-3-8. Whiteman, Osterman, & Hanna LLP represent 208 Business Center, LLC who has an interest in the property located at 401 and 403 State Route 208, and 23 Gilbert Street (collectively 201-3-3, 201-3-4, 201-3-7, and 201-3-8). The applicant is seeking site plan approval from the Village of Monroe Planning Board to construct approximately 47,500 SF commercial building on the Project Site with related off-street parking and infrastructure. The Project will include approximately 72,500 SF of floor area devoted to commercial and retail uses. The Project Site is in the General Business "GB" zoning district in the Village of Monroe, where the proposed commercial and retail building is permitted with site plan approval from the Planning Board without any area variances. On June 21, 2022, the Village of Monroe Board of Trustees adopted Introductory Local Law Moratorium on Development Approvals, which prohibits the Planning Board from approving the Project while the Village Board considers amendments to the Village of Monroe Zoning Code. On behalf of the Applicant, they request that the Village Board grant a hardship waiver pursuant to Section 4 of the Moratorium and allow the Planning Board to continue its review of the pending site plan application. This matter was tabled for further review.

The Village Planning Board held a meeting on September 27, 2022, to discuss the merits of the application and prepare a recommendation to the Village Board.

This has been tabled until the November 1, 2022 meeting to give the Board time to review the memo from the Planning Board along with Planning Board minutes. Ken, a traffic consultant for the project, explained the traffic pattern created for this project. Mayor Dwyer asked in a traffic simulation could be made and shared. Ken said he would make one and present it at the first meeting in November. Attorney Terhune will create a framework for discussion.

SACRED HEART CHURCH HOLY NAME SOCIETY CHRISTMAS NATIVITY:

RESOLVED, the Board of Trustees approves the request of Sacred Heart Church Holy Name Society to provide a Christmas Nativity display in Crane Park for the Christmas holiday. Coordination will be made with DPW Working Leader Giudice.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

JUSTICE COURT INDEPENDENT AUDIT ACKNOWLEDGEMENT:

WHEREAS, in accordance with Section 2019-a of the Uniform Justice Court act requiring that Village Justices annually provide their court records and dockets to their respective Village auditing boards, and that such records be examined or audited and that fact be entered into the minutes of the Board's proceedings, it is hereby

RESOLVED, the Board of Trustees hereby acknowledge that an audit of the Village Justice Court's cash receipts, cash disbursements and cash balances was made for year ending May 31, 2022 by the Village Independent Auditor, RBT CPA's LLP, 11 Racquet Road, Newburgh, NY 12550 and no discrepancies were found.

On a motion by Trustee Ferraro, seconded by Trustee Behringer

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

REINSTATEMENT – PD - P/T DISPATCHER – R. KING:

RESOLVED, the Board of Trustees accepts the request of Police Chief Guzman and reinstates Ryan King to part-time dispatcher from his position as provisional full-time

dispatcher, effective October 16, 2022 at an hourly rate of \$23.64. The necessary MSD 426-B will be submitted to Orange County Department of Human Resources.

On a motion by Trustee Behringer, seconded by Trustee Ferraro

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

APPOINTMENT: F/T POLICE OFFICER- F. ROWE:

RESOLVED, the Board of Trustees approves the recommendation of Police Chief Guzman to hire Frederick Rowe to the position of F/T Police Officer as a transfer approved by the Orange County Department of Human Resources. Mr. Rowe is a full-time officer with the Village of Goshen Police Department, serves in the United States Marine Reserves, a Monroe-Woodbury Central School District graduate, and a Village resident. The required Department application, background, psychological, physical, and drug screening have been completed. The effective date of hire is November 1, 2022 with a starting salary of \$61,594.00.

On a motion by Trustee Behringer, seconded by Trustee Karl

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

PAYMENT AUTHORIZATION #1 – HIGH STREET / OWEN DRIVE WATERLINE REPLACEMENT:

RESOLVED, the Board of Trustees accepts the recommendation of Village Engineer, John O'Rourke P.E., and approves Payment No. 1 for the period ending October 7, 2022 submitted by Regal Utility Services, 731 Warwick Turnpike, Hewitt, NJ 07421, for the High Street / Owen Drive Waterline Replacement project in the amount of \$111,508.28. All documentation has been reviewed and found complete. Mayor Dwyer is hereby authorized to sign the voucher for payment.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

CONTINUED MORATORIUM WAIVER REQUEST – PLANNING BOARD APPLICANT – 216 ELM STREET, 203-5-22:

(Minutes 9/6/2022)

David Niemoitko, Architect, P.C., submitted a request that his project located at 216 Elm Street, 203-5-22, be exempt from the moratorium and placed on the Planning Board agenda to remove the existing violations as outlined by the fire inspector and clarify the use of the property as compliant with the zoning code. The owner occupies the building and operates a car service from this location. As a result, there exists violations on the parcel regarding the existing structures and the proposed use as outlined by the Village Zoning Code. The Building Department has stated the use of the property is illegal as this is a single-family dwelling being used as a taxi business. The Building Department has not done the required Land Use Form as this, falls under the moratorium due to the conversion of residential to commercial in the GB district. This topic has been tabled until Attorney Terhune can get some questions answered by the Building Inspector and the Planning Board Attorney.

After review, the request emailed to the Board of Trustees requesting the waiver was not sufficient. It is the applicant's responsibility to make a separate application to the Village Board seeking a waiver and identifying, pursuant to the criteria set forth in the moratorium law, why they qualify. Once this has been done, the Village Board can consider the request. As this property stands, the applicant should remedy the building code violations.

This matter has been tabled indefinitely.

VILLAGE OF MONROE
WAIVER OF APPLICATION AND CONSULTANT FEES
FOR INTERAGENCY APPLICATIONS

WHEREAS, the Planning Board of the Village of Monroe is seeking to appeal a decision of the Building Inspector to the Zoning Board of the Village of Monroe pursuant to Village Zoning Law § 200-75B(1); and

WHEREAS, interagency actions such as this are not explicitly exempted from payment of application and consulting fees as required by Chapter 98, "Fees," and § 200-76C of the Village Code; and

WHEREAS, in the absence of specific exemption, payment of interagency application and consulting fees would require the expenditure of taxpayer money taken from the monies set aside to operate said agency; and

WHEREAS, the stated purpose of § 98-1A is to ensure that the cost of deciding land use applications and appeals pending before the Planning Board and Zoning Board should be paid by the applicant and not from funds that are raised by taxpayer assessment.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Village of Monroe finds and determines that the use of taxpayer money to pay application and consulting fees for interagency appeals contravenes the purpose of the Village Code and is an unnecessary expense on Village residents.

BE IT FURTHER RESOLVED, that the Planning Board is hereby exempt from the payment of application and consulting fees for any and all appeals set before the Village Zoning Board.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

The Mayor declared the Resolution adopted.

Dated: October 18, 2022

MAYOR & TRUSTEE'S REPORT:

Trustee Behringer reminded everyone about the Halloween event on Saturday, October 29, 2022 starting at the YMCA for a Trick or Trunk at 11am, then over to the Commuter Lot to begin a parade with a candy crawl through the downtown at 12pm, then march on over to Smith's Clove Park for activities and hayrides.

Trustee Karl said we are still in a water restriction. The reservoir is 23.5 inches down, better than the 29 inches down, but we still have some catching up to do. Due to the level in the reservoir, hydrant flushing will be postponed. He also said something we need to keep an eye on is the newly proposed three (3) lot subdivision on Owen Drive in the Town of Monroe, looking for municipal water.

ATTORNEY'S REPORT:

Nothing to report.

PUBLIC COMMENT:

PRESENT 4

TIME: 8:30PM

Joe Umberto, Village Planning Board Member and resident, voiced his opinion on the two waiver requests from the moratorium that were listed on the agenda. He is not in favor of waiving any requests. He feels the Board should not consider waiving any requests during the moratorium. Developers take development risks. He also participated in the SWAT analysis and said a great job had been done. He also commented that water our biggest strength and is essential to all of us, so you must make sure you have another well ready to go.

Vince LaSalle, resident, sees the Trustees as the protectors of our Village. He feels Monroe is losing its charm. He feels that more patrolling and cameras would help with some of the speeding that takes place. He also questioned another emergency entrance for the YMCA by Wally's Ice Cream. He expressed his concerns about the condition of High Street with all the bumps and holes. Mayor Dwyer and Trustee Karl said a plan has been put in place for curbing, milling, and paving in the next couple of weeks. He also complained of a smell by Heritage Trail. Trustee Karl explained it is from the MOODNA Sewer District and Village of South Blooming Grove Sewer District that flows entering a drop manhole in Airplane Park.

EXECUTIVE SESSION:

On a motion by Trustee Behringer, seconded by Trustee Karl, and carried, following a 5-minute recess, the Board convened in Executive Session at 8:30 PM for discussion of litigation.

OPEN SESSION:

On a motion by Trustee Karl, seconded by Trustee O'Connor and carried, the Open Meeting resumed at 9:22 PM.

During executive session the Board was advised on the status of potential litigation.

RESOLVED, the Board of Trustees authorizes the Village Attorney and Special Counsel to commence litigation in a particular matter.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

ADJOURNMENT:

On a motion by Trustee Behringer, seconded by Trustee Ferraro and carried, no further business, the meeting was adjourned at 9:25 PM.

MONTHLY REPORTS:

On a motion by Trustee Behringer, seconded by Trustee Karl, with all in favor, the department monthly reports were accepted and filed.

Respectfully submitted,

Kimberly Zahra
Village Clerk

SEPTEMBER 2022 VILLAGE CLERK'S REPORT SUBMITTED BY KIMBERLY ZAHRA, VILLAGE CLERK:

1. Minutes prepared, processed associated correspondence and Legal Notices completed for the September 6th and September 20th Board of Trustee's Meeting.
2. Permits issued: Handicap Parking: 7 Garage Sale: 16 Solicitor/Peddling: 0
Road Opening: 0 Blasting Permit: 0 Liquor License: 0 Towing Permits: 0
3. Processed 6 Event Application.
4. Public Hearings Held: 3
5. Bi-Weekly payroll worksheets completed and submitted.
6. Collected August water rents.
7. Required paperwork filed with O.C. Department of Human Resources.
8. Processed FOIL requests.
9. Oversee updates and maintenance, of Village Website and Constant Contact. (39 sent)
10. Daily retrieval of messages left during the day and after hours. Forwarded messages and responded as required.
11. Vouchers completed as required. Transmittal of money collected completed and bank deposits done.
12. Scan and email pertinent information to Board and Attorney.
13. Collected 2022/2023 Village Tax Bills.
14. Vouchered and mailed lawn maintenance violation invoices.
15. Processed new employee paperwork.
16. Prepared 1 proclamation.
17. Processed Cheese Festival vendor payments.
18. Supporting and continued training of part-time Water Billing Control Clerk.
19. Deputy Clerk attended Edmunds Water Billing Presentation.
20. Vouchered and mailed water violation.
21. Connected Village Hall printers to Highway OCE large scanner.

SEPTEMBER 2022 JUSTICE COURT REPORT:

Total Fines: \$20,031.00 Total Surcharges: \$7,012.00 Total Parking: \$1,425.00
Total Civil Fees: \$4,010.00 Bail Poundage Collected: \$15.00 Total Bail Forfeited: \$0.00
Total for September: \$32,493.00

Vehicle & Traffic Tickets: 236 Disposed: 265
Criminal Cases: 19 Disposed: 60 Civil Cases: 1 Disposed: 1
Paid Parking Tickets: 44 Dismissed Traffic Tickets: 31

SEPTEMBER 2022 POLICE DEPARTMENT REPORT SUBMITTED BY DARWIN GUZMAN, CHIEF:

CALLS FOR SERVICE

TOTAL CALLS – 1,632

CASES/CRIMINAL OFFENSE – 122

ARRESTS – 44

TRAFFIC REPORT

TRAFFIC TICKETS – 246
PARKING TICKETS – 74
GAS – \$3,143.44 / 874.2G
MVA's – 22

TRAINING

K9 – Berke

Field Training – Munoz

Patrol Rifle Course – Romer

ARIDE – Rooney

Defensive Driving – Gross / Malgieri / Gayler / Mahoney / Romer / Berke / Hansen /
Amatetti

SEPTEMBER 2022 FILTRATION PLANT REPORT SUBMITTED BY ERNEST
MABEE, CHIEF OPERATOR:

Production: Lake Mombasha:	28,853,429	30,109,508 Gallons LY 2021
Well #4:	3,682,692	5,047,628 Gallons LY 2021

Consumption: 32,536,121 Gallons / 35,157,136 Gallons LY 2021

Water Samples / Testing: Passed

Rainfall: 3.33"

Reservoir: -29

Miscellaneous:

Mark Outs

2 Reservoir Inspections

Final Water Reads

Daily Equipment Maintenance at Plant and Well

Weekly and Monthly Water Testing to Lab, All Results Good

Updated Diamond Maps

Painted Hydrants

Moved Hydrant on Crotty Court

Started to Clear the Transmission Line from Filter Plant to Reservoir

Alan Prince Removed 411 Tons of Weeds from Reservoir During 6/1/2022 to 9/16/2022

Rapid Pump at Van Kuren PS

SEPTEMBER 2022 DPW SUBMITTED BY LARRY GIUDICE, WORKING LEADER:

1. Empty all garbage cans around Village and Ponds nine (9) times.
2. Pick papers in park.
3. Weedo – Millponds and move weeds.
4. Sweep roads.
5. Water flowers.
6. Mow Village green areas.
7. Paint stop bars, stripes, arrows on roads.
8. Clean and weed 911 and War Memorial.
9. Clean all catch basin tops.
10. Clean and paint bell tower.
11. Mow and weed-wack park.
12. Check all streams.
13. Install new solar speed limit sign on Schunnemunk.
14. Move weed harvester to shop.
15. Grade up Waterplant Road and blacktop.
16. Install No Parking signs on Stage Road.
17. Set up for Cheese Festival and 911.
18. Repair junction box on Peterbush Drive.

19. Blacktop potholes and patches in Maple Knolls.
20. Cut trees at Mombasha Lake easement.
21. Cut up tree on Stage Road.
22. Repair service line at 400 Stage Road.
23. Move hydrant on Crotty Court.
24. Clean up shop and yard.
25. Go over wood chipper and chainsaws.
26. Install fence on Fredrick Drive and DeAngelis Drive.

**SEPTEMBER 2022 BUILDING DEPARTMENT AS SUBMITTED BY ASSISTANT
BUILDING INSPECTOR PROULX:**

Building Permits Issued:	34
Rental Inspections Completed:	25
Title Searches Completed:	21
Violations Issued:	17
Warnings Issued:	26
Building Permit Inspections Performed:	165
C.O's Issued:	31
Complaint Inspections:	103
Fire Inspections:	8
 Open, active building permits:	 387
 FOIL Requests:	 6
 Building Permit Fees:	 \$ 9,029.50
Rental Permit Fees:	400.00
Fire Inspection Fees:	0.00
Title Search Fees:	<u>3,150.00</u>
Total Collected Fees:	\$ 12,579.50

Monthly Assessor's Report
 Monthly report to FD for Solar
 Daily cash deposits to Clerk
 Bi Monthly mailing for expired permits
 Attendance at Planning Board Meetings, Village Board, and ZBA Meetings

MONROE FIRE DISTRICT OFFICERS 2022:

Commissioners: Thomas Sullivan – Chairman, Jason Kalter – Vice Chairman, John Centofanti, Pat Patterson, Tom Lowe
 Secretary: Kathleen Aherne
 Treasurer: Richard Goldstein
 Chief Rich Lenahan, 1st Ass't Chief Jon Dolch, 2nd Asst. Chief John Scherme

SEPTEMBER 2022 TREASURER'S REPORT SUBMITTED BY CATHERINE**MURRAY:**

Treasurer's Report Village of Monroe September 2022

SIGNIFICANT ACTIVITY (REVENUES)

Utility Gross Receipts Tax	26,800
Bank interest	14,332
Rental of Real Property	15,146
Building Permits	12,878
Fines & Forfeited Bail	28,071
Aim Related Payments	31,456
Misc Revenue (Cheese Festival & WC Loyalty Award)	9,485
Other Public Safety (body-camera equipment grant)	10,109

SIGNIFICANT ACTIVITY (EXPENDITURES)

Law Contractual	6,815
Law Contractual/ Other Atty	5,190
VH Contractual	13,333
PD Contractual	7,853
St Maint Hwy Equipment	97,094
St Maint Asphalt	43,935
St Maint Oiling	212,756
St Maint Bldg Maintenance	8,009
St Maint Equipment Maintenance	6,368
Street Lighting Street	9,355
Off Street Parking Striping	13,898
Parks Equipment Maintenance	6,315
Parks General Maintenance	6,985
Celebrations General Expense	8,061
Purification Chemicals (water)	6,548
Purification Contractual (water)	57,960
Distribution Equipment Rental (water)	7,050
Health Insurance - General Fund	123,115
- Water Fund	17,248
	<hr/> 140,363

STATUS OF FY2023 CONTINGENCY ACCOUNTS**CURRENT BALANCE**

General Fund Appropriation -budgeted	\$101,775	101,775
Water Fund Appropriation -budgeted	\$51,500	51,500

COMMENTS:

We have completed 4 months of the fiscal year and expenses should be at 33.3%. The expenses are at 32.2% for the General Fund and 22.8% for the Water Fund inclusive of budget adjustments to be approved by the board.

Respectfully submitted,
Catherine Murray
Treasurer

Written Comment (left open for ten days from 10/04/2022 meeting) – Mombasha Reservoir

October 8, 2022

Board of Trustees and Village Clerk
Village of Monroe, NY

I, Fred Wiebke, am writing this, my fourth letter, to the local government of the Village of Monroe, in the hope of coming to an amicable agreement on the issue of allowing regulated recreation on Lake Mombasha (Reservoir) for lakeside residents.

I have been following recent changes and challenges to our local community and they are exhausting and disturbing to most who live in Monroe.

While looking over some of my research notes concerning our plight to maintain the recreational use of the lake, I discovered one source which is the "Orange County Water Master Plan" dated 2010. It stated "the fact that increasing development within a watershed will enhance the likelihood that surface or ground water contamination will occur" and "land protection is therefore typically among the highest priorities in a reservoir watershed management plan, alongside the strategic application of land use controls and best management practices" (page 16 of the Orange County Water Master Plan).

Also, under "Reservoirs" listed is "Mombasha Lake, Town of Monroe serves the Village of Monroe and, like Walton Lake, is also located in a highly developed area of the County. Existing residential uses combined with the potential development of unprotected vacant land within the Lake's watershed could compromise the water quality of this important reservoir." (page 17 of the Orange County Water Master Plan).

Fast forward to present day and we can relate to the simple and yet applicable advice of the above-mentioned 2010 Orange County Water Master Plan.

I think that the Village and Town of Monroe governments have more than enough dilemmas to deal with, mainly "cluster type development and the watershed contamination it may very well contribute to."

Our small assemblage of "Camp Comfort" bungalows remain situated on our property as they did over 60 years ago. We do not seek to add a single bungalow to our lakeside paradise.

Getting back to the topic at hand, lake recreation, please don't run roughshod over our long established riparian and littoral rights to boat and fish on our beloved Lake Mombasha.

Respectfully submitted,
Fred Wiebke
40 Water Plant Road
Monroe, NY 10950

**Attachment - NFCC Attorney Letter Addressed to Mayor Neil S Dwyer
Dated September 20, 2022**

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7600

Robert S. Rosborough IV
Partner
518.487.7608 phone
rosborough@woh.com

September 20, 2022

VIA EMAIL

Neil S. Dwyer
Mayor
Village of Monroe
7 Stage Road
Monroe, New York 10950

Re: Proposed Local Law to Modify Chapter 195 of Village Code

Dear Mayor Dwyer and Members of the Village Board of Trustees:

My firm represents the Nettie-Fred Cooperative Corporation ("NFCC"), a group of homeowners who own property that directly abuts the Mombasha Reservoir, also known as Mombasha Lake ("the Lake"). Please accept this comment letter in connection with Local Law #9 ("Local Law") that proposes to modify Chapter 195 of the Village Code to prohibit all forms of recreation on the Lake.

Members of the NFCC have been using the Lake as a recreational outlet for decades. Currently, the Village Code already prohibits swimming, bathing, and gasoline-powered boating entirely, and fishing and non-gasoline powered boating are only allowed after obtaining a permit from the Village Department of Public Works Superintendent and only within specific areas of the Lake. If the proposed modification to the Village Code is passed, then the Village Board of Trustees would prohibit "recreation of any kind" and eliminate common forms of recreation currently allowed on the Lake such as permitted non-gasoline powered boating such as kayaking and canoeing, fishing, other activities such as snowshoeing in the winter, and more. *See Proposed Local Law § 3.*

The Board claims that the Local Law is necessary to preserve the health of the Lake because the Lake also acts as the Village's drinking water supply. No specific or detailed information has been provided, however, to substantiate the Village's conclusory belief. The Village Board has not provided any information concerning what the new or additional risk of contamination is, in light of the current Code provisions that already prohibit most recreational activities, and what may have recently changed to create the need to entirely prohibit recreational activities that have

been ongoing for decades without threatening the Village's water source. Indeed, the latest publicly available information from the New York State Department of Environmental Conservation identifies only nutrients such as phosphorus, silt, stormwater runoff, and failing nearby septic systems as the major use impacts or sources of pollutants.

We respectfully submit that the Board should decline to pass the proposed Local Law, for three main reasons: (1) the Local Law violates the riparian rights of neighboring landowners, including our clients' rights, and deprives them of their property rights without due process or just compensation; (2) the Local Law's proposed recreational activity prohibition does not have an adequate scientific basis and is merely based upon hypothetical or nonexistent impacts to Mombasha Lake; and (3) other New York lakes provide safe drinking water and still allow similar recreational activity as is currently authorized under the Village Code. Because the Village's water supply is already adequately protected by the Village Code provisions currently in effect, no basis exists to further restrict my clients rights.

Members of the NFCC Have Riparian Rights and the Lake is Subject to the Public Use Doctrine

Based on New York State Law, the waters of the state shall be conserved and developed for all public beneficial uses, including domestic, municipal, agricultural, commercial, industrial, power, and recreational. N.Y. ENV. CONSERV. L. § 15-0105(2)-(3). Although we acknowledge that the Village may act to protect its water supply source, this power does not authorize the Village to completely eliminate any and all forms of recreational uses of the water, without any substantiated health and safety basis for doing so. *Id.* § 15-0105(5). No such basis has been provided.

The intersection of New York water law and landowners' property and riparian rights must be considered before the Board decides whether to prohibit all recreational activities on the lake. Riparian rights are created by the ownership of land that directly borders a watercourse, such as a lake. *Townsend v. McDonald*, 12 N.Y. 381 (1855). A riparian owner's use must be reasonable and cannot unreasonably interfere with other riparian owner's uses. *Barkley v. Wilcox*, 86 N.Y. 140, 146-147 (1881). Alterations to lakes are permitted as long as the alteration does not cause harm to another riparian owner. N. Y. ENV. CONSERV. L. § 15-0701(1). "Harm" for the purposes of riparian rights is defined as "interference with a present use of the water," interference with a person's "present enjoyment" or "a decrease in the market value" of a person's interest in the riparian land. *Id.* at § 15-0701(2)(a)-(b).

Riparian rights owners, such as the members of the NFCC, have already had their rights restricted by not being allowed to swim across the Lake or only ride permitted boats that are launched from designated areas. To prohibit every other form of recreational use of the Lake, when there is no evidence that the currently permitted recreational activities are causing any impacts to the drinking water, would interfere with the riparian landowner's "present use of the water" and would also result in a "decrease in the market value" of the landowner's interest in the riparian land. *Id.* Indeed, the members of the NFCC presently enjoy the water for kayaking, canoeing, snowshoeing in the winter, and more, activities that frequently occur on many New York State lakes that also serve municipal water sources.

Additionally, it is well known that lakefront homes and properties are more valuable than

inland properties.¹ Lakefront property is typically valued at least twenty-five percent (25%) to forty percent (40%) higher than properties inland. *Id.* Some of the factors impacting the increase that sitting lakeside would have on a property are the view, water access, and potential outdoor amenities. *Id.* Prohibiting all recreational access on the Lake would directly and negatively impact each of the three categories that determine the lakefront property values, and would reduce our clients' property values significantly, resulting in a taking of their property for public use without due process or just compensation.

Although the homeowners would still be able to see the Lake, the recreation prohibition signs, as they are currently posted, partially block their view and are disruptive to the landowners' enjoyment of their properties and the Lake. There are simply less intrusive and better ways to ensure the safety of the Village's drinking water from the Lake than prohibiting all recreational activities thereon, and violating the NFCC members' property and riparian rights in the process.

Along with riparian rights, the NFCC members are entitled to use of the Lake under the Public Trust Doctrine. Under the Public Trust Doctrine, the surface waters, including lakes, of New York State are held in a public trust that allows for the rights of navigation, and incidental rights of fishing, boating, swimming, and other recreational purposes on public waters. *Fulton Light, Heat, & Power Co. v. New York*, 200 N.Y. 400 (1911). The members of the NFCC have exercised these commonly held rights for the past 60 years without incident. Indeed, their decades-long use of the Lake is what connects them to their heritage and family history in the area. To eliminate any and all recreational uses now, when there is no substantiated scientific basis supporting the proposed Local Law, violate the NFCC members' long-held rights to use the Lake in a safe and responsible manner.

The Local Law Harms Residents Without Proper Justification

Not only would the Local Law violate the riparian rights of the NFCC members, but the Village has not provided a factual basis that directly connects the few remaining recreational activities that are permitted to any potential increase in the level of risk of contamination to the Village's water supply that would justify changing the Village's Code to prohibit all recreational activities in their entirety.

The NFCC and its members have owned lakefront properties for decades. The NFCC as a corporation was formed over sixty (60) years ago, with the specific purpose to "assist its members by performing service with the purchase and management of real property." *NFCC Certificate of Incorporation* at 2. Since 1960, the NFCC has been pursuing that purpose by maintaining the upkeep and management of the properties that border the Lake and has done so in an environmentally responsible manner. The NFCC has also continually worked with the Village to help maintain the Lake and has even provided the Village access onto NFCC properties in order to conduct studies of the Lake.

¹ *How Much Value Does Living the Lakefront Dream Add to a Property?*, Melissa Holtje, HOMELIGHT, February 28, 2022 <https://www.homelight.com/blog/how-much-value-does-a-lakefront-add-to-a-property/#:~:text=Kimberly%20Nemeth%2C%20a%20longtime%20real,%24100%2C000%20to%20a%20home's%20value..>

To remove the few remaining forms of recreation left on the Lake would significantly harm the landowners in an unnecessarily quick course of action. The NFCC fully understands the need to provide safe drinking water to the Village, but without any explanation or connection to the proposed prohibited activities, the Village's decision does not appear to be based on any scientific reasoning or supported by any rational basis. Rather, this proposed Local Law appears to be a solution in search of a problem, and a hypothetical problem at that.

At the Village meeting held on September 19, 2022, the Village gathered with members of the local community and the engineering firm, Barton & Loguidice ("B&L") to discuss the Village of Monroe Drinking Water Source Protection Program ("the Program"). Throughout the presentation, the Program was repeatedly characterized as preventative rather than reactive. It was noted by B&L that the Lake helps provide what is currently considered very clean drinking water. With the current contamination levels significantly below what is considered concerning, and the Program being implemented for merely preventative purposes, there is simply no reason to prohibit all forms of recreation from the Lake. The group that presented last night also confirmed, when directly asked, that there is no current problem with contamination of the Village's water supply. Based on the presentation last night, the Village cannot provide concrete justification for the proposed Local Law and by prohibiting all forms of recreation, the Village would be creating problems that do not exist rather than presenting solutions to a water pollution issue that has not yet occurred.

The Village's decision to prohibit the landowners from not only using the Lake recreationally but also obstructing their view, which was previously unobstructed, of the Lake with signs appears to be directed at the landowners themselves and the members of the NFCC, in particular. Indeed, one can think of many different communication techniques that could better communicate the Village's restrictions upon certain recreational activities on the Lake that do not impair the property rights and values of the riparian landowners. Therefore, the NFCC respectfully requests that the Village Board decline to pass the proposed Local Law until it can provide a direct, scientific, and factual connection establishing that the few remaining non-gasoline powered recreational activities allowed on the Lake actually pose a significant risk of harm or contamination to the Village's water supply.

Other New York Lakes Provide Safe Drinking Water and Allow Similar Recreational Activities

Finally, the Village Board should consider that many other communities across New York State continue to allow similar recreational activities to those that the Village seeks to prohibit on lakes that serve as those communities drinking water sources. According to the New York State Department of Environmental Conservation, there are more than 7,600 freshwater lakes, ponds and reservoirs in New York State.² Throughout the state, there are numerous freshwater lakes that are able to provide safe drinking water while also continuing to allow recreational activities.

One example of this well-maintained balance is the Finger Lakes Watershed. As a part of central and western New York, there are eleven formed lakes and watersheds that area about 4,600

² NYSDEC information may be found directly on the Department's website.
<https://www.dec.ny.gov/lands/95817.html>.

square miles and stretch into parts of thirteen counties.³ All of the lakes are used for fishing, swimming, and other forms of recreation and, except for Honeoye Lake, all of those lakes are used as public drinking water supplies that serve roughly 1.5 million customers.⁴ And, notably, a NYSDEC Finger Lakes Water Quality Report stated that in comparison to the rest of the lakes in the Finger Lakes region, the eleven Finger Lakes tended to have better water quality. *NYSDEC Finger Lakes Water Quality Report 2018*, at iv.⁵

The Finger Lake region is just one of several examples of lakes that allow recreational activity that are still able to provide safe drinking water for communities. Indeed, communities in the Adirondacks that are concerned with the introduction of invasive species have strictly enforced boat-washing and patrolled boat launches to ensure that boats do not bring species into the Adirondack ecosystems that are non-native and pose environmental risk. The communities do not, however, outright ban all recreational activities as the Village proposes to do here.

The Village has already prohibited several forms of recreational activity in the Lake. Those regulations serve the Village's interest in protecting the water supply, while also ensuring that neighboring property owners do not lose all of their property and riparian rights in the use of the Lake. Without any additional information that directly establishes that the few recreational activities that remain permitted is actually what risks safe drinking water, the Village should not prohibit all forms of recreation because they "needlessly jeopardize the health and safety of Village residents." Proposed Local Law § 1. Therefore, the Village should not move forward with the Proposed Local Law until the Village has additional information to prove that the remaining recreational activities are the reason for the increased level of risk of contamination to the Village's water supply.

Conclusion

For the reasons stated above, we respectfully request that the Village decline to adopt the proposed Local Law because it would violate the property and riparian rights of neighboring landowners, no scientific basis exists to justify a complete prohibition on all forms of recreational activities, and many other lakes across the State are able to safely balance allowing recreational activities while providing safe drinking water.

Thank you for your consideration of the above. Please do not hesitate to contact my office with any questions.

³ NYSDEC information on the Finger Lakes Watershed. <https://www.dec.ny.gov/lands/122661.html>.

⁴ *Id.*

⁵ The NYSDEC Water Quality Report may be found here:

<https://senecalake.org/resources/Documents/Water%20Quality/Streams/2017%20FINGER%20LAKES%20WATER%20QUALITY%20REPORT.pdf>.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Robert S. Rosborough IV". The signature is written in a cursive style with a prominent "R" and "S".

Robert S. Rosborough IV

MONROE VILLAGE JUSTICE COURT

7 Stage Road, Monroe, NY 10950 – Tel. (845) 782-8721 Fax (845) 782-8701

Hon. Forrest Strauss
Village Justice

Hon. Yvette A. Rosario
Associate Village Justice

Ms. Christine Wiebke
40 Water Plant Road
Monroe, NY 10950

October 9, 2022

Re: Your Letter of October 3, 2022

Dear Ms. Wiebke:

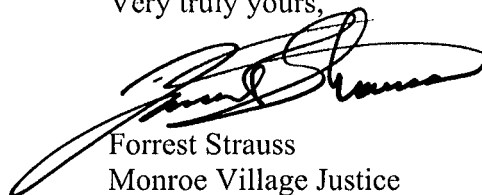
I've received your October 3, 2022 letter, wherein you express your concerns about the regulation of use and access to the Mombasha Lake Reservoir.

As Village Justice, I am the elected head of our Village's Judicial Branch. My job is to interpret the law, to ensure that it is applied in a fair and equitable manner that effects its stated intent and purpose, and to protect the constitutional rights of all parties who come before me. This function is different from that of the Legislative Branch, which enacts the laws, and the Executive Branch, which enforces them. Our forefathers referred to this as the "Separation of Powers Doctrine."

Under this concept, neither I personally, nor the Court as a governmental branch, have the authority to influence or impact the enactment of legislation by local, county, state, or federal authorities. Most often, it's only when the enforcement of an enacted statute comes into question, usually in the context of a specific alleged violation of same, that jurisdiction over the interpretation of a given statute, and its fair and constitutional application, is conferred upon the Court.

I hope that, in explaining the foregoing, I have provided you with a satisfactory understanding of why I am legally and ethically prohibited from acting upon the concerns raised in your letter. Nevertheless, I thank you for writing me and wish you luck in your efforts to find a workable resolution for both your and the government's concerns.

Very truly yours,



Forrest Strauss
Monroe Village Justice

cc: Associate Justice Rosario, Mayor Dwyer
Village Trustees, Village Attorney Terhune

Kim Zahra

From: Christine Wiebke <christinewiebke@gmail.com>
Sent: Saturday, October 15, 2022 8:35 AM
To: Mayor Dwyer; Debbie Behringer; Trustee Karl; Trustee Martin O'Connor; Trustee Andrew Ferraro; Kim Zahra
Subject: RECREATIONAL USE ON MOMBASHA LAKE (RESERVOIR)

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Honorable Mayor Neil S Dwyer
Village of Monroe Trustees and Clerk Kimberly Zahra

As a follow up to my husband, Fred Wiebke, addressing the Board at the October 4, 2022 Village Hearing regarding resident rights to boating on Tuxedo Lake (RESERVOIR) kindly refer to these three helpful and informative guideline links.

We, the long-time stewards, caretakers and deeded lakefront homeowners of Mombasha Lake, deserve and would like these enjoyable rights on the lake enacted for us also.

<https://www.tuxedopark-ny.gov/water-sports>

<https://www.tuxedopark-ny.gov/private-owned-boats>

<https://www.tuxedopark-ny.gov/living/pages/village-boat-club>

Thank you for taking the time to review all.

Respectfully submitted,
Christine Wiebke
NFCC - CAMP COMFORT

Sent from my iPad

Bulk Fall Pickup is Saturday, October 15, 2022 [Read more »](#)



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Water Sports

WATER SPORT	TUXEDO LAKE RESERVOIR	POND No: 3	WEE WAH LAKE
Swimming	No	Yes - Lakefront Residents	Yes - Lakefront Residents & Beach Club Members
Boating	Yes - Lakefront Residents, Tuxedo Club Members & Village Boat Club Members	Yes - Lakefront Residents	Yes - Lakefront Residents, Fishing Club Members, & Village-owned at Wee Wah Park
Water Skiing	No	No	No
Gas Engines	No	No	No
Paddle Boards	Yes - Lakefront Residents, Tuxedo Club Members & Village Boat Club Members	Yes - Lakefront Residents	Yes - Lakefront Residents & Wee Wah Park
Electric Surfboards	No	Yes - Lakefront Residents	Yes - Lakefront Residents & Wee Wah Park
Manual Tubing	No	Yes - Lakefront Residents	Yes - Lakefront Residents & Wee Wah Park
Rafting / Floats	No	Yes - Lakefront Residents	Yes - Lakefront Residents & Wee Wah Park

NYS Fishing Licenses are required.

Dress Code on all Village Lakes requires top and bottom attire for all activities not swimming.

News

In The Final Hour - There Are Legitimate Taxpayer Concerns Over The Tuxedo Farms Special Permit

Tuxedo Historical Society Ribbon Cutting

Halloween Celebration in Tuxedo Park

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Privately Owned Boats

Boating

Residents on lakefront properties can access the lake with privately-owned boats. They are also eligible to apply for a cedar boat dock to moor their boats. For residents that do not have lake access by boat, there are three (3) alternatives for access, 1; The private Tuxedo Club maintains boat slips on Tuxedo Lake, 2. The Village Boat Club on Tuxedo Lake, and 3. The Wee Wah Boat and Fishing Club on the Wee Wah Lake. Tuxedo Park allows electric-powered boats only. Each lakeside resident is entitled to register four (4) boats - boat types are listed below.

Eligible Boats:

Pontoon (Size limitations)
Single-Hull (Size limitations)
Sail (Size limitations)
Kayak
Row
Canoe
Skulls

Village Code:

- Boat Docks - Require approval.

- Steam Cleaning - Mandatory steam cleaning of all boats entering the lake for the first time, or reentering the lake after seasonal storage or use on a waterbody outside Tuxedo Park must be steam cleaned at the Village Department of Public Works (DPW) by appointment; The reason is to curtail the spread of invasive aquatic plants and animals such as Eurasian Water Milfoil and Zebra Mussels.

Village Boat Permits:

The Village of Tuxedo Park must license all boats annually. Permits are available at the Village Office.

BOAT PERMITS

Any boat that has left the Village and is brought back in must be steam cleaned by the DPW before being put back in any of the lakes.

Boat permits are Issued to property owners only. Renters are not eligible.

When possible, the same number is issued to the boat owner as issued to them in the previous year.

TUXEDO LAKE

Eligibility for a boat permit on Tuxedo Lake:

- *The applicant must own property adjacent to Tuxedo Lake and is entitled to 3 permits per parcel. Only one boat of the 3 can be a Pontoon boat, or
- *The applicant is a member of the Tuxedo Club. If a new applicant, the Club must sign off on the application, or
- *The applicant is a member of the Village Boat Club, which requires members to be property owners. Only 1 boat permit is allowed per membership.

POND #3 & WEE WAH LAKE

Eligibility for a boat permit:

- *The applicant must own property adjacent to the lake.
- *The Wee Wah Fishing Club is allowed to register 6-row boats.
- *The Wee Wah Beach Club may register kayaks.

Quick Links

Village Code - Boats

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Village Boat Club



About

The Village Boat Club is a self-funded taxpayer organization, providing Tuxedo Lake access to Village property owners/taxpayers for the enjoyment of Tuxedo Lake. The VBC provides some shared boat use for kayaking, boating, and fishing. Some limited rack space for small, carry-type, member-owned boats is provided as available. All member-owned boats and VBC boats must remain at the facility after required steam/ pressure washing and registering for the season, as do all boats entering Tuxedo Park village, to be used on any Village-owned lake. Tuxedo Park Village boat registration is also required for all boats to be used and remain on any Tuxedo Park lake. VBC Membership is open to all qualified Village property owners/ taxpayers.

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Orange County, NY

Our Lady of Mt. Carmel

Parks & Recreation

Police - Public Safety

Privately Owned Boats

Road Safety

St. Mary's-in-Tuxedo Episcopal Church

Tuxedo Park For Your Information ("TPFYI")

The Tuxedo Club - Private

The Tuxedo Volunteer Ambulance Corps

Town of Tuxedo

Tree Removal



Tuxedo Park Library

Tuxedo Park School (Private Pre-K to 9th)

Tuxedo Park Volunteer Fire Department

Tuxedo Union Free School District

Utilities

Village Boat Club

Water Sports

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Wildlife



Appalachian "Trail Angels"

Design, Construction & Remodeling Guidelines

Emergency Alert System - CodeRED

Garbage Removal & Recycling

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Tuxedo Train Station

Wee Wah Park and Beach Club



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