

Village of Phoenix Regular Board Meeting  
Tuesday, April 11, 2023 at 7:00 PM  
Sweet Memorial Building - 455 Main Street, Phoenix, NY 13135

Present: Mayor Brian Borchik  
Trustee Paul Griser  
Trustee Jeff Koegel  
Trustee David Pendergast  
Trustee Sally Woolson  
Sergeant Dan Ferazzoli  
Village Clerk Roxanne Demo  
Administrator James Lynch  
Attorney Jeffrey Schiano

14 Public in Attendance

Mayor Borchik began the Board Meeting with Pledge of Allegiance at 7:08 P.M.

Mayor Borchik introduced the new Trustees Sally Woolson and Jeff Koegel and also our new Village Justice Jason Godkin who will start training next week.

Mayor Borchik said he'd like to mention something he saw on facebook, we have a couple youngsters here that like cleaning up the pond, Avery Ashby and her brother likes to be involved too, and that is very important to me. The nice neighbor award goes to Avery Ashby and a gift card for Independent Pizzeria.

Kelly Ellis 86 Lock Street to discuss her property shows a paper road on her survey and needs to have it resolved in order to sell the property. Attorney Schiano instructed her to have the buyer's attorney contact him as to what she'd like the board to do to resolve the situation, either by resolution or deed.

Mayor Borchik indicated the Board would hold its annual organizational meeting for 2023-24. A draft of the proposed 2023-24 organizational resolutions (in this form) had been distributed to all Village Board members.

**Village of Phoenix**  
**Organizational Meeting**  
**April 11, 2023**  
**BLANKET RESOLUTION(s)**

The first such proposed resolution is to schedule the next annual organizational meeting for 2024; it was proposed that same be scheduled for the first Tuesday of the month following the Village Election at 7:00 p.m. at the Sweet Memorial Building;

Now therefore be it,

RESOLVED that:

(1) the 2024-25 Village Board annual organizational meeting and following same, the first regular meeting of the Board shall be next held on the first Tuesday of the month following the date of our annual Village 2024 election in the usual public meeting place (large or small Board room) of the Village Board at 7:00 o'clock, P.M., pursuant to all applicable legal provisions including those which meet the requirements of Article 7 of the Public Officer's Law on open meetings, and subject to the foregoing adjourned/rescheduled days and times.

(2) that the following appointments, and for the following terms are hereby made by the Mayor and approved by this board:

<u>TITLE</u>	<u>APPOINTMENT NAME</u>	<u>TERM</u>
Village Clerk/Treasurer	Roxanne Demo	Two Year
Village Deputy Clerk/Treasurer	Laura Gonzalez	One Year
Deputy Mayor	Paul Griser	One Year
Village Administrator	James Lynch	Two Year
Village Attorney	Jeffrey Schiano, Schiano Law Firm	One Year
Village Chief of Police	Martin Nerber	One Year
Village Code Enforcement Officer	James Lynch	One Year
Village Engineer	Miller Engineering, Doug Miller PE	One Year
Village Insurance Agent	Eastern Shore Associates; Agent	One Year
Misc. see following resolutions	As indicated	As indicated

(3) that the following appointments to the Village Planning and Zoning Board, and for the following terms are hereby made:

<u>Member</u>	<u>Board</u>	<u>Term of Office</u>	<u>Expiration</u>
Ron Johst, Chairman	PB	12/17/19-12/17/2024	2024
Douglas Deeb	PB	12/17/19-12/17/2023	2023
Ronald Priest III	PB	02/02/21-02/02/2024	2024
Jeff Koegel	PB	04/05/22-03/31/2024	2024
Donna Peters	PB	02/01/22-02/01/2023	2023

that the following appointments to the Village Planning Board, and for the following terms are hereby made:

<u>Member</u>	<u>Board</u>	<u>Term of Office</u>	<u>Expiration</u>
Butch Remington, Chairman	ZBA	12/17/19-12/17/2024	2024
TBA	ZBA		
<del>Barbara Dix</del>	<del>ZBA</del>	<del>12/17/19-12/17/2022</del>	<del>2022</del>
<del>Fred Wall</del>	<del>ZBA</del>	<del>04/05/22-03/31/2024</del>	<del>2024</del>
<del>Harlow Roderick</del>	<del>ZBA</del>	<del>04/05/22-04/02/2023</del>	<del>2023</del>

(4) that pursuant to applicable provisions of law, including without limitation Village Law §3-306, the Village Clerk-treasurer, any deputies, any village justice and acting justice, and such other officers and employees of the Village in subordinate positions to those specifically hereinbefore named as the Board of Trustees hereby requires including without limitation, all those with access to or the ability, by electronic

remote access or otherwise Village, governmental or taxpayer funds, records of and/or accounts or accounts information, shall provide or cause to be provided an undertaking or undertakings in such minimum amounts as may be required by law or established by the Village Board from time to time and that the Village's insurance carriers, brokers or agents be and they hereby are authorized to and shall provide and/or continue to provide such undertakings and in such forms and coverage amounts as are described on the applicable blanket policies serving as such for the past Village year and in any event providing coverage for all such persons and exposures as the Village insurance provider (Eastern Shore), its agent representative; Bill Street advises in his professional opinion should be covered under the blanket undertaking as permitted under applicable law and however such insurance agent/representative to be requested to, upon receipt of a copy of these resolutions certified to by the Village Clerk Treasurer, review the Village's coverages and advise the Board as to any recommended increases in such coverage amounts, addition of covered limits or exposures as may be economically, reasonably and prudently recommended any increased premium costs for same, and also be asked to provide written confirmation of the securing of commitments for any such additional or supplemental coverages to the Village within thirty (30) days of the date hereof;

(5) that the regular meetings of the Village Board be held at 7:00 P.M. on the first (1<sup>st</sup>) and third (3<sup>rd</sup>) Tuesday of every calendar month. In the event that date of meeting falls on a holiday, a meeting is to be held on the substitute day duly authorized and noticed/posted faxed or emailed to local media in the manner required by law. All meetings and public hearings are to be held at the large meeting room, and with abstract meetings, executive sessions, working sessions generally in the board room or Mayor's office all located in the Sweet Memorial Building, 455 Main Street, Phoenix, New York, and with conduct of all meetings and sessions pursuant to the requirements of Article 7 of the Public Officer's Law on open meetings. The Zoning Board of Appeals meetings are held on the third (3<sup>rd</sup>) Thursday of the calendar month, as needed at 7 PM at the small meeting room in the Sweet Memorial Building. The Village Board may determine to hold only one meeting per month during summer months in which case abstract meetings or board polls may be conducted in the interim, subject to formal ratification by resolution at the next or following regular or special board meeting at which such actions may be ratified by duly adopted resolution. Any such summer months meeting schedule shall be announced at a prior meeting or meetings shall be held on the first Tuesday of the month, with an abstract meeting, primarily for the purpose of bill payment and/or other urgent matters held on the third Tuesday or immediately following Thursday at 12:00 p.m. in the board room or Mayor's office.

(6) that the existing rules of procedures for Village Board of Trustees meetings and public hearing heretofore duly adopted or readopted/affirmed by resolutions of the Village Board of Trustees in the April 2016 organizational meeting or thereafter, and to the extent not included therein, as supplemented by the standard language printed on each meeting agenda, is and shall remain in full force and effect and not deemed waived or terminated as a result of the failure to at any time strictly enforce such rules of procedure, and subject to any further amendment.

(7) that the Village Board of the Village of Phoenix be and hereby is authorized to audit (i.e., review/verify) and pay any properly certified and authorized claims as may come before it during the 2023-24 year.

(8) that the salaries of Village officers and other elected and appointed officials shall be paid in such amounts as set up and approved in the 2023-24 budget and in such frequency as follows:

TITLE	FREQUENCY
Mayor, Trustees	Twice annually
Village Administrator	Biweekly
Code Enforcement Officer	Biweekly

Clerk/Treasurer	Biweekly
Assistants/Deputy	Biweekly
Water Operator	Biweekly
Police Chief	Biweekly

(9) That NBT Bank, N.A. be and hereby is designated as depository in which the Clerk/Treasurer shall deposit all moneys coming into her hands by virtue of her office.

(10) that the Village Clerk/Treasurer is authorized to invest as enumerated by provisions for temporary investment contained in 11:00 of the General Municipal Law for current moneys and in 165:00 of the Local Finance Law for proceeds of borrowing.

(11) that the Village Attorney is authorized to amend the official investment policies of the Village and any such policies pending written amendment shall be deemed as fully in effect from the effective dates of any changes in state or federal laws applicable to same and/or any change in depository, such policies as so amended by the Village Attorney, shall be retroactive to such effective date(s) and formally approved and ratified by resolution of the Village Board.

(12) that Village Officials required as a condition of their employment to use their private vehicles be reimbursed at a rate of \$.655 per mile or the then applicable federal rate, if not the same, for all traveling done in a personal vehicle on official business upon being authorized or mandated to use such vehicle(s).

(13) that payment in advance of audit of claims for public utility services, postage, freight and express charges, health insurance, phone services, workmen's compensation and disability, pager service and/or cell phone service and similar advance payments authorized by statute or law is hereby authorized, as are any such payments duly approved by the Mayor or by Village Board poll and duly made part of the record by duly adopted resolution ratifying and confirming such prior actions it being acknowledged that certain of such obligations properly incidental to Village governmental operations may be budgeted but not yet appropriated and/or are so clearly a legally valid claim, liability or obligation of the Village that such expenditure(s) including relative to emergencies or basic day to day governmental operations are so patently obvious, or so clearly the usual and customary liabilities or obligations of the Village or of New York Village governmental operations generally, or based upon the written legal opinion of the Village attorney that same is a valid claim, liability or obligation that is justly due, the Village Mayor is granted limited authority to effect the timely payment of same and so as to avoid any interest and or penalties, maintain good business relations, address an emergency or nonemergency but unanticipated and/or not budgeted claim, obligation, or liability (and provided as to the latter a contingency reserve, unappropriated fund balance from the prior fiscal year, or other fund reserve from which a transfer can be approved and such reserve to the extent depleted not required for the account or fund reserved), or necessary expenditure at a time when a Board poll cannot easily be conducted, a majority of Board members cannot participate in the poll or cannot be timely contacted, any such exercise of authority by the Mayor shall be limited to the minimum dollar amount necessary in order to achieve the foregoing objectives and or to avoid such exposures as above described and with a formal resolution confirming and ratifying all such actions at the next following regular or special meeting of the Village Board or as soon thereafter as is reasonably practicable, and all such claims shall be presented for audit, and the claimant or officer incurring or approving the claim are jointly and severally liable for any amount the Board of Trustees disallows due to same being in violation of the foregoing limited authority hereby approved.

(14) that the Village Clerk/Treasurer is hereby designated licensing, records and FOIL officer and as Tax Collector for Village taxes, and for water, sewer, refuse, and any other special assessments or charges/fees, and/or other duties for which the Village Clerk, Treasurer or Deputy may be uniquely qualified by reason of appointment to their office as Clerk, Treasurer or Deputy, including those to which the Mayor is

likewise qualified by reason of the holding of his/her office, and provided as to the latter that the Mayor has specifically required or acknowledged such duties be performed by the Clerk/Treasurer or such Deputy;

(15) that a Special Meeting may be called by any three (3) members of the Village Board desiring that a special meeting be held and signing in one document or three separate counterparts a notice of meeting, or as may be called for by the Village Mayor, and may be held subject to, and as required and permitted by law. Any special meeting shall be duly posted and noticed as required under Article 7 of the Public Officer's Law on open meetings; special meetings called on short notice shall be scheduled with due deference to having full board attendance and thus shall not except in emergency or similar urgent matters requiring immediate address. be intentionally scheduled where known or probable work, education or training, or serious family or other personal commitments of Village Board member or members may exist and resultant time conflict; otherwise where reasonable efforts have been made to accommodate any such person(s) action subsequently taken by a duly constituted quorum of the Village Board shall be deemed valid and legally taken in all respects and this provision shall not by any means be interpreted to require continuous, repeated, or even sporadic accommodation or to require a change to the established Village Board regular meeting or to any already scheduled public hearing.

(16) that the Village Clerk/Treasurer is authorized to establish a \$150.00 petty cash fund.

(17) Barbara Dix having been reappointed as official Village Historian as such may if she so desires, represent the Village of Phoenix in such capacity at such related and incidental events in support of the Village's historical and cultural heritage, and including at the annual APHNY statewide conference.

(18) that the Syracuse Newspaper – Post Standard will be used for all official publications and required legal notice in a newspaper of general circulation.

(19) that the following Village Board liaison appointments for the 2023-24 year are hereby made:

Police Department	Mayor Borchik
DPW	Trustee Griser
Town of Schroepfel	Trustee Koegel
Enterprise Fire Department	Trustee Griser
Zoning Board	Trustee Pendergast
Planning Board	Trustee Pendergast
Parks (Henley, Vickery, Pond, Garden)	Trustee Woolson
Phoenix Central School District	Trustee Koegel
Library	Trustee Woolson
Justice Court	Trustee Griser

(20) that the Procurement Policies of the Village currently in effect and last reviewed by the Village Attorney and reviewing same with the Village Board at the 2023-24 organizational meeting and including relative to the 2015-16 adoption of a "best value" standard as an option for purchasing and also authorizing and permitting "piggybacking" for purchasing and procurement; and also reviewing and reminding the Board of the various agency funding requirements and the effect of same in imposing further duties and obligations in order to ensure the promotion of various state and federal policies (as further mentioned and described in more detail hereinafter) is and shall remain in effect subject to further amendment by the Village Board as required by law or otherwise; further, if at any time during the Village 2023-24 year New York State or any preempting Federal laws, statutes and or rules and regulations promulgated thereunder) are amended or enacted respecting Village procurement,

purchasing and or contracting practices so as to increase the minimum dollar limits for formal bid packages relative to purchase and public works contracts, or to permit the Village to relax, remove or relieve itself of any conditions imposed on such practices including by unfunded mandates such as, but without limitation, relative to prevailing wage, awarding of separate prime contracts and/or subcontracts such procurement policies shall be deemed as amended to conform to same from the earliest effective date of the foregoing Federal or State laws effecting same, and however subject (where required in order to become effective) to ratification by the Village Board of Trustees at the next following regular or special Village Board meeting, or otherwise at the earliest opportunity for such formal ratification.

(21) that the Sexual Harassment Policy of the Village currently in effect and last reviewed by the Village Attorney advising of the substance of same to the Village Board shall remain in effect, unmodified, with the following: Clerk/Treasurer, Mayor, and one Trustee (namely, Trustee Sally Woolson) as the Review Board for the Sexual Harassment Policy and Jim Lynch as the Investigative Officer. In the event any complainant names any person or persons on the Review Board or Investigative Officer as the violating party or as a key witness, such person(s) shall immediately recuse themselves from any proceedings whereby any impropriety or appearance thereof might be alleged if such person does not recuse him/herself from such proceedings. In such event, the substituting person shall be named from amongst those remaining Trustees, the Village Police Chief and/or Village Attorney, by the remaining Review Board members and also requiring approval of the Village Mayor (if he/she is not the/a remaining Review Board members). In the event of an Investigative Officer recusal, such person shall be replaced by appointment of the Review Board however subject to approval of the Village Mayor from the remaining Trustees, Village Attorney or Village Police Chief.

(22) that the Workplace Violence Prevention Policy currently in effect and last reviewed by the Village Board in April 2016 shall remain in effect with the following: Clerk/Treasurer, Mayor, and one Trustee (namely, Trustee Sally Woolson) as the Review Board for the Workplace Violence Prevention Policy and Jim Lynch as the Investigative Officer, subject to the same recusal provisions as above provided.

(23) That the various policies and procedures formalized under resolution entitled:

**“IN THE MATTER OF: THE ESTABLISHMENT OF AND APPOINTMENT TO CERTAIN POSITIONS INCIDENTAL TO, AND THE ADOPTION OF CERTAIN POLICIES AND PROCEDURES RESPONSIVE TO NYS CDBG PROJECT #911PR79-11 MONITORING REPORT DATED APRIL 22, 2016”**, dated July 5, 2016 having been reviewed and explained by counsel, are hereby reaffirmed and readopted more specifically the reestablishment for Village Year 2023-24 of those policies and those positions set forth in detail as follows:

### **FAIR HOUSING POLICY**

This notice is published pursuant to the requirements of Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with federal assistance, and with Title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination in the provision of housing because of race, color, creed, religion, sex, national origin, disability or familial status.

The Village of Phoenix, New York advises the public that it will administer its assisted programs and activities relating to housing and community development in a manner to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services.

The Village of Phoenix shall assist individuals who believe they have been subject to discrimination in housing through the resources of the New York State Division of Human Rights or the U.S. Department of Housing and Urban Development.

The Village of Phoenix has designated the following as the Fair Housing Officer to coordinate efforts to comply with this policy. Inquiries should be directed to: Village Administrator at

## **SECTION 504 POLICY/GRIEVANCE PROCEDURES AND NOTICE**

### **Policy**

It is the policy of the Village of Phoenix not to discriminate on the basis of disability. The Village of Phoenix has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

The Law and Regulations may be examined in the office of the Village Administrator, at the Village of Phoenix, 455 Main Street, Phoenix, New York 13135, and the Village Administrator has been designated as Section 504 Grievance Coordinator to coordinate the efforts of the Village of Phoenix to comply with Section 504.

Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for the Village of Phoenix to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

### **Procedure**

1. Grievances must be submitted to the Section 504 Coordinator within 90 days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
2. A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
3. The Section 504 Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of the Village relating to such grievances.
4. The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.
5. The person filing the grievance may appeal the decision of the Section 504 Coordinator in writing to the Mayor of the Village within 30 days of receiving the Section 504 Coordinator's decision. The Mayor shall issue a written decision in response to the appeal no later than 30 days after its filing.
6. The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the New York State Division of Human Rights or any other New York State or Federal agency or court or similar body or person having original jurisdiction over any such claims and not requiring as a condition precedent the filing of a grievance and/or appeal hereunder.
7. The Village of Phoenix will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.
8. The Section 504 Coordinator is the Village Administrator. The Section 504 Coordinator can be contacted, and grievances may be filed at: Village Administrator at [jlynch@villageofphoenix-ny.gov](mailto:jlynch@villageofphoenix-ny.gov)

ny.gov, or by mail at the Village of Phoenix, 455 Main Street, Phoenix, New York 13135. The office can be reached by phone at (315) 695-1307 between 9:00am to 4:00 pm Monday – Friday).

## **FAIR LABOR STANDARDS COMPLIANCE PROCEDURES AND PRACTICES**

### **Policy Requirements Generally**

29 CFR 5.6, entitled Enforcement requires general compliance with 29 CFR Part 5 - LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE...SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT) and in particular the provisions of 29CFR 5.1 and 5.5 relating to respectively general statutes and laws the within referenced regulations are promulgated under, and required contract and related provisions. Included amongst or incorporated therein, in particular, is the requirement under 29CFR5.6 that if imposed by the funding agency, recipients themselves shall conduct onsite inspections and a Fair Labor Standards Compliance Officer (“Labor Standards Officer”) be appointed for such purposes.

The Village of Phoenix, accordingly hereby adopts as a standard policy that in the event of any agency funding projects required to comply herewith, the Village shall, through its Labor Standards Officer, comply with all applicable provisions of 29CFR 5.6 and incorporated provisions, and direct or itself conduct on-site inspections including without limitation, such random interviews with laborers and mechanic’s employed on any construction project as sufficient to ensure that wage decisions and Department of Labor notices are posted at the job sites. Accordingly, in the instance of any grant of agency funding, loans, bonds, incentives or benefits, by any federal or state governmental agency required to comply herewith, a sufficient number of Labor Standards Officer conducted or directed employee interviews shall be confidentially conducted in order to verify that the correct wages and fringe benefits are being paid. The Labor Standards Officer shall likewise verify that any employees listed as apprentices or trainees are enrolled in approved training programs and that wages are posted at the site as required by federal and state law.

### **File Maintenance**

Pursuant to 24CFR570.501 the Village of Phoenix shall ensure that CDBG funds are used in compliance with all program requirements. To ensure compliance, the Village of Phoenix will follow all CDBG program requirements by retaining documents and organizing files as outlined in Chapters 1 and 6 of the OCR Grant Administration Manual in order to permit proper review of project information, if requested. The Village Administrator and Village Clerk-Treasurer shall ensure that it is compliant with the requirements of any agency funding programs subject to these provisions, and however subject also to the Implementation and Effectiveness Sections hereof (following).

### **Contract Provisions**

All contracts between the Village of Phoenix and any contractors shall include all required provisions under 24CFR85.36(i), including without limitation relating to access to construction records and documents, indemnifications in favor of the Housing Trust Fund, and procedures ensuring compliance with 24CFR Parts 85 and 570. Any such contracts in excess of \$100,000 shall also contain and require full compliance with all legal and contractual requirements, including without limitations, the following provisions:

1. Remedies in instances of contractor violation or breach of contract terms.
2. Termination for cause and convenience.
3. Equal Employment Opportunities and Minority and Women’s Business Enterprises.
4. Copeland Anti-kickback Act and related regulations.
5. Davis-Bacon Act and related regulations.
6. Contract Work Hours and Safety Standards Act.

7. Section 3 of the Housing and Community Development Act of 1968.
8. Clean Air Act and Clean Water Act and related regulations.

All final executed contracts with all bid materials incorporated therein shall be kept on file and readily available for proper review, if requested.

### **Accounts Management**

Pursuant to 24CFR85.20(b)(7) Village shall ensure the minimization of the time elapsing between the transfer of CDBG funds received into the Village's account and the disbursement of funds from such account. Disbursements of such funds shall occur within five (5) business days of receipt of funds. The Village of Phoenix shall not request funds for reimbursement until all required disbursement of the funds can be made within this five (5) business day time frame.

### **General Procurement Policies and Procedures/Requirements**

The Village of Phoenix Procurement Policies is/are hereby modified to include the Equal Employment Opportunities and Section 3 of the Housing and Community Development Act of 1968 provisions stated herein. The Village shall ensure that it includes in its general or prime contract(s) with any Contractor that the Contractor shall comply with, and must also ensure that the following is included however, without limitation, and also subject to the resolution provisions stated at the last two (2) "RESOLVED" paragraphs hereof, in all applicable subcontracts for work related to this Contract (the term "Contractor" as used herein shall also be deemed to mean "Subcontractor"):

1. Section 3 Clause (24 CFR 135.38)

- (a) The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that Employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this Agreement agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediments that would prevent them from complying with the Part 135 regulations.
- (c) The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understand, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this (Section 3) clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the Subcontractor is in violation of the regulations in 24 DFR Part 135. The Contractor will not subcontract with any Subcontractor where the Contractor has notice knowledge that the Subcontractor has been found in violation of the regulations in 24 CFR Part 135.

- (e) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Agreement is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.
  - (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
  - (g) With respect to work performed in connection with Section 3 covered Indian Housing Assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).
2. Contractor shall maintain such records, and complete and submit forms as may be amended from time to time, as required by the NYS Office of Community Renewal ("OCR") and/or HUD including but not limited to the Section 3 New Hires Report and the Section 3 Business Certification Package. Such forms shall be submitted in accordance with the directions contained therein and at such other times as the OCR and/or HUD may direct.

### **Implementation and Effective Dates of Foregoing Policies and Procedures**

All such policies and procedures established herein, and personnel and/or officer positions established, persons appointed and appointments herein shall be effective as and from the date of adoption of this resolution. Notwithstanding such appointments made, and not intending to or in effect release such appointee or other person above specified from all such duties and requirements of such office and position hereunder, and in connection with the laws and regulations referenced, it shall be permitted and is contemplated that performance of certain acts and duties required hereunder may or shall require professional, academic or specialized expertise, and as such, assistance in performance of all such required duties may be contractually delegated or assigned to an administrator, project engineer, architect or other professional or specialized consultant, procured and retained under contract with the Village in connection with a specific project or projects, or agency funding actions, and subject and pursuant to such policies, procedures and requirements for procurement of administrative/consulting or other professional services contracts as required under Village Code, state, federal or other such statutes, laws, rules and/or regulations and including as otherwise pertains to the specific project and agency funding conditions. Any such assignment or delegation of duties shall only be as legally permitted under the foregoing statutes, laws, rules, and regulations, and shall not in any event effect or be interpreted as an intent to transfer legal liability or responsibility for the statutory, regulatory and contractually required duties hereby imposed from the Village of Phoenix (and such persons, employees and/or officers) or other legally obligated persons to such third party administrator, consultant or the like, or to release or relieve the Village of Phoenix, such officers, employees, or persons or other independent contractor/consultants, and including specifically those officers and/or employees appointed hereunder or as described herein and otherwise required under applicable law, if and from such legal requirements and/or any other legal responsibility or liability as imposed by the applicable contract or by applicable statute, laws, regulations, rules and/or those duties and/or obligations arising hereunder. Rather, same is and shall be reflective only of the Villages intent to, wherever economically and/or practically advisable and feasible, obtain specialized or expert assistance with respect to the performance of such duties as requiring certain professional or other specialized expertise, experience, and/or the like, and to such person(s) or entity as are best equipped, trained, educated and otherwise to perform such duties and however, in any and all events and time(s) under the general direction and control of the Village and its appointee above named, and/or otherwise the Mayor or Village Board, as the case may be, and it is,

(24) that James Lynch, Village Administrator, Codes Enforcement Officer, is hereby reaffirmed as and reappointed to such offices/ positions specifically Fair Housing Officer, EEO Officer and Section 504 (ADA) Coordinator, and is appointed to such other offices/positions as required for Restore New York, EFC, Main St., and other CDBG agency funding/financing programs under pending agency funding applications and commitments, and shall reaffirm his oath of office so as to include these duties by his signature in the oath book and upon a separate oath form.

(25) that officers and employees authorized to attend the certain conferences and schools shall be considered on a case by case basis based upon a review of Village officer/employees educational/training needs, available budget, reserve or unexpended fund balance, and the like:

NYS Conference of Mayors Annual Meeting and Training School  
NYS Conference of Mayors Fall Training School  
School for Fiscal Officers and Municipal Clerks: NYS Conference of Mayors Public Works School:

(26) that in addition to the positions/offices established and persons appointed at Resolution #'s 23 and 24 above, in the event any state, federal, county or other authority, agency, foundation or other charitable or not for profit entity benefit or assistance program applied for/through and/or is pending, awarded, committed to, closed and/or drawn down on, or otherwise acted on during the 2016-17 year, at the terms and conditions thereof require(s) that a certain Village officer, employee or representative position be established solely for purposes of ensuring compliance with all terms and conditions of such assistance or other benefits, and as well the appointment of a person to such officer, employee or representative position, the Mayor shall be entitled to establish such suspended office, employee or representative position and shall have sole discretion to appoint such person(s) of his choosing in his sole discretion and unless otherwise prohibited by the law and provided by duly adopted resolution of the Village Board such person(s) and for serving in such position, shall not be salaried or otherwise compensated including by hourly or other independent contract; the foregoing however shall not preclude the Village Board from providing for compensation to an existing salaried or hourly employee or officer appointment to for performing such services where same are not required under the Officers/ employees job duties description established by civil service or the Village Board; no person assuming such position upon appointment shall make any claim for compensation or consideration for services performed after appointment and acceptance of such position after the adoption of this resolution;

(27) except as may be otherwise indicated or acknowledged by the Village Attorney, all acts of the Village Board which may constitute "actions" under the New York State Environmental Quality Review Act shall be deemed Type II actions and thus not subject to SEQRA review.

(28) notwithstanding that the foregoing resolutions are intended to be effective as of and from the date of 2023-24 organizational meeting through close of the Village 2023-24 official year except as otherwise specifically provided or required by applicable law, all such actions shall remain in full force and effect until the 2023-24 Village Board of Trustees organizational meeting.

NOTE: the Village's official fee schedule has been for some time in need of a comprehensive review and we believe various modifications are presently still warranted; the law requires an annual review and readoption with or without modifications by the Village Board and where reasonably warranted, the reasons for same expressed in the record of the meeting when approved. Based on the same concern having been raised at prior organizational meetings, our former Codes Officer did suggest, and the Board accordingly adopted several modifications however for the most part relating mainly to property maintenance, construction and inspection related fees, such as for Building Permits, Certificates of Compliance or Occupancy and the inspections incidental to same. Primo indicated this was from memory but those were the general areas of his concern and those changes were made he believed in 2015; Primo suggested the schedule still needs to be reviewed; many zoning and planning related applications and permits require considerable work by administrative staff, our application fees, particularly for non single or even two family owner occupied premise need to be reflective of the market and we have to collect related fees up front, such as for publication and our professional fees escrows. While certain proceedings perhaps should not be subject to professional fees for review, these should be limited to matters like area

variances to correct long existing but newly discovered violations, interpretations as to whether certain premises are legal non-conforming and the like. Otherwise, if related to any constructed improvements such as may increase property value, to have the Village general fund incur same is patently unfair. Since the fee schedule needs to be reviewed and formally readopted either as exists or with modification. The Village Attorney advised that over the next few months he would gather comparables from municipalities that clearly have an understanding from current experience as to all the work that ensues with even minor applications and will assemble it, meet with Jim Lynch for his input on those fees or perhaps others he has concerns regarding; they will attempt to reach a consensus and then present to the Board a proposed set of modifications including where warranted an explanation as to the numbers proposed. He indicated this would take a few months thus perhaps timing the newly modified fees for January 2020.

Motion was made by Trustee Griser to approve for adoption the foregoing blanket resolution(s) for the 2023-24 annual organizational meeting, seconded by Trustee Woolson. Voting as follows:

Mayor Brian Borchik	Aye	<u>√</u>	Nay	_____	Abstained	_____
Trustee Paul Griser	Aye	<u>√</u>	Nay	_____	Abstained	_____
Trustee Jeff Koegel	Aye	<u>√</u>	Nay	_____	Abstained	_____
Trustee David Pendergast	Aye	<u>√</u>	Nay	_____	Abstained	_____
Trustee Sally Woolson	Aye	<u>√</u>	Nay	_____	Abstained	_____

Mayor Borchik appointed himself and trustees as liaisons to each department.

**Mayor Borchik opened the regular board meeting at 7:28pm.**

### **Mayor and Trustee Comments**

Mayor Borchik spoke about the local law for solicitors; the board will review the code as to raising the fee, only allowing certain hours and days. Attorney Schiano will look into it further and then will draft an updated local law and we'll hold a public hearing. Mayor Borchik asked the board to submit to Jim any ideas that they have.

Trustee Griser wanted to welcome Jeff and Sally to the board, and to Dave glad to be working with you again.

Trustee Pendergast asked if we were all set with the Lysander Sewer district and if we received the past due money. Administrator Lynch said we have received our payment and have billed West Phoenix for two quarters now. Pendergast said at 501 Main Street there's a manhole cover that needs to be addressed.

Trustee Woolson had nothing.

Trustee Koegel wanted to thank the voters for electing us in and is looking forward working with everybody.

### **Department Comments**

Sergeant Ferazzoli has a couple personnel updates, Luke Spagnola and Hunter Nerber have resigned. We have four certified officers that are interested in working here. The calendar has been updated and we have full coverage for the rest of the month.

Administrator Lynch he had a discussion with Attorney Schiano regarding our fees or lack of fees in our codes, when we have a developer come in to fill out an application there currently isn't any fees for engineering and legal. We'll have a further discussion of appropriate fees for this along with hookups to

sewer etc. Lynch has been in contact with Saratoga Associates regarding updating our comprehensive plan, the last time it was updated was in 2013, Jim will provide a price for that in the upcoming meeting. Lynch passed out to the board a unique idea that a business owner has presented to him and asked the board to look it over and let him know what their thoughts are.

### **Attorney Schiano**

Attorney Schiano welcomed Sally and Jeff, and thanked everyone for having him again. He feels we've accomplished a lot over the last couple years. Schiano updated the board regarding the most recent court appearance for the chickens; the judge gave a ruling that the residents have been given 60 days to be in compliance with our local law by reducing the number of chickens to six. Schiano spoke about the new justice court, there's been a mix of opinions about whether village courts should be absorbed into the towns and he thinks from what he has seen over the last couple years the village can benefit from the village court, it'll be a great tool for the village and make a difference in the lives of our residents for sure, he welcomed our new village justice Jason Godkin.

### **Abstract**

Ratify phone poll for abstract #3 dated April 4, 2023 in the amount of \$129,758.22. Trustee Woolson made the motion to approve, general fund vouchers 62-84; water fund vouchers 67-81; sewer fund vouchers 65-82; library fund vouchers 9-15 and trust and agency fund vouchers 17-23, seconded by Trustee Koegel, Trustee Griser aye, Trustee Pendergast aye, Mayor Borchik aye. Motion carried.

### **New Business**

Facility use for the auditorium from Katelyn Smith for a birthday party from 11:00–4:00 on April 22, 2023. Motion to approve was made by Trustee Pendergast, seconded by Trustee Woolson, Trustee Griser aye, Trustee Koegel aye, Mayor Borchik aye. Motion carried.

Facility use for the auditorium from Andrea Horne – Inferno Elite from 2:00-10:00pm on April 28, 2023. Motion to approve was made by Trustee Pendergast, seconded by Trustee Woolson, Trustee Griser aye, Trustee Koegel aye, Mayor Borchik aye. Motion carried.

### **Public Comments**

Steve Walts owner of vacant property on Volney St. – is submitting the paperwork and plans for a simple subdivision. Attorney Schiano said for the new board members a subdivision implies that it has to go to the planning board, our code and most codes allow for a minor subdivision, our code allows up to three separate lots, you can have one lot and it can be split up to three without submitted it to the planning board, this will be submitted to the Administrator and he can approve it.

Motion was made by Trustee Woolson to adjourn the regular meeting at 8:08pm, seconded by Trustee Koegel, Trustee Griser aye, Trustee Pendergast aye, Mayor Borchik aye. Motion carried.

Respectfully submitted,

Roxanne Demo  
Village of Phoenix  
Clerk/Treasurer