

Minutes - Board Meeting 06/04/08

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, June 4, 2008 at Village Hall, 155 Washington Avenue, Mineola, New York 11501.

PRESENT: Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

ALSO PRESENT: Village Attorney John Spellman
Village Clerk Joseph R. Scalero
Village Treasurer Giacomo A. Ciccone
Superintendent of Buildings Daniel B. Whalen
Superintendent of Public Works Thomas J. Rini

Sunshine Observers: Approximately 10 Observers

Press: Joe Rizza, *Mineola American*
Gary Simeone, *Williston Times*

Mayor Martins called the Work Session to order at 6:55 pm.

Resolution No. 118-08

Resolved to approve bills and payroll.

Motioned by Trustee Paul S. Cusato
Seconded by Lawrence A. Werther

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Resolution No. 119-08

Resolved to accept the Minutes of the Board of Trustees for January 2008 – April 2008, as amended.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Thomas F. Kennedy

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Resolution No. 120A-08

Resolved to approve Rodger O’Gara, Company No. 1, as a member of the Mineola Fire Department, as approved by the Fire Council.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Thomas F. Kennedy

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Resolution No. 120B-08

Resolved to approve Thomas McKeon, Company No. 2, as a member of the Mineola Fire Department, as approved by the Fire Council.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Paul A. Pereira

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Mineola Fire Department Chief Scott Holliday presented a report of the Department’s activities for the month of May 2008

Resolution No. 121-08

Resolved to authorize the following banks to be designated as additional depositories for deposits of all monies received by the Treasurer of the Village of Mineola.

HSBC Bank USA, National Association
Flushing Commercial Bank

Mineola Branch
New Hyde Park Branch

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Thomas F. Kennedy

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Superintendent of Public Works presented a report on the Department’s activities.

Mayor Jack M. Martins requested a motion to go into Executive Session at 7:32 pm.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul S. Cusato

Vote:

<u>Yes</u>	<u>No</u>	<u>Absent</u>
Trustee Paul A. Pereira		
Trustee Thomas F. Kennedy		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Mayor Jack M. Martins		

Mayor Jack M. Martins requested a motion to come out of Executive Session at 7:38pm.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Thomas F. Kennedy

Vote:

<u>Yes</u>	<u>No</u>	<u>Absent</u>
Trustee Paul A. Pereira		
Trustee Thomas F. Kennedy		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Mayor Jack M. Martins		

Resolution No. 122A-08

Resolved to accept the resignation of employee Danny Martins and authorize the payment of unused accumulated benefit time in accordance with the collective bargaining agreement.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul S. Cusato

Vote:

<u>Yes</u>	<u>No</u>	<u>Absent</u>
Trustee Paul A. Pereira		
Trustee Thomas F. Kennedy		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Mayor Jack M. Martins		

Resolution No. 122B-08

Resolved to authorize the Superintendent of Public Works to post for the position of Parking Enforcement Officer.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul A. Pereira

Vote:

<u>Yes</u>	<u>No</u>	<u>Absent</u>
Trustee Paul A. Pereira		
Trustee Thomas F. Kennedy		
Trustee Lawrence A. Werther		
Trustee Paul S. Cusato		
Mayor Jack M. Martins		

Resolution No. 123-08

Resolved to grant a 90-day extension for Residential Building Permit No. 0148 at 264 Rudolph Road.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul A. Pereira

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Resolution No. 124-08

Resolved to accept a grant application under the Nassau County Environmental Fund.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul S. Cusato

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Resolution No. 125-08

Resolved to approve for a Special Use Permit pursuant to Chapter 30, Section 30.31(B) of the Code of the Incorporated Village of Mineola, at premises known as 236 Willis Avenue, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 453, Lots 327-330 and 369-370.

NAME OF APPLICANT:	First Korean Church of New York
SUBJECT PROPERTY:	Section 9, Block 453, Lots 327-330 and 369-370
STREET LOCATION:	236 Willis Avenue Mineola, New York 11501
ZONING DISTRICT:	Business "B-1" District
RELIEF REQUESTED:	Application For a Special Use Permit pursuant to Chapter 30, Section 30.31(B) to maintain a church
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARINGS:	August 8, 2007 and December 10, 2007
APPEARANCES:	Thomas Pantelis, Esq., Applicant's Attorney

DECISION:

First Korean Church of New York (hereinafter, "Applicant") is before this Board pursuant to Chapter 30, Section 30.31 of the Municipal Code of the Incorporated Village of Mineola for a special use permit to maintain a church at the property known as 236 Willis Avenue, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 453, Lots 327-330 and 369-370) (hereinafter, the "Property").

By Notice of Disapproval, dated January 26, 2007, Applicant was advised that a special use permit was needed to operate a church at the property. The Building Inspector determined that, pursuant to Village Code §30.31.(B)(5), a church may be maintained in the B-1 Zoning District only when authorized by the Board of Trustees as a special use after a public hearing. As a result, Applicant sought relief before the Board of Trustees for a special use permit.

A review of Applicant's application, sworn to on April 25, 2007, as submitted to this Board, states that the Applicant intends to use the existing building on the property for "Church services and Church-related activities". Accompanying its special use permit application, the Applicant has submitted a lease agreement, dated February 26, 2002, between the Mineola Order of Odd Fellows, Applicant's predecessor in title, and the Mineola Union Free School District, which provides, among other things, that the Mineola School District has the exclusive right to occupy twenty-five (25) of the thirty-two (32) parking spaces in the parking area at the Property for a ten (10) year period from July 1, 2003 to June 30, 2013 (the "Lease"). The Lease further provides the Mineola School District with an option to extend the Lease for an additional ten (10) year period. The Lease provides that the twenty-five (25) parking spaces are available for the School District's sole use Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m., excluding public holidays.

Public hearings on the application were held before the Board of Trustees on August 8, 2007 and December 19, 2007. During the public hearings, the following representations were made by Applicant:

There is an existing parking area which is owned by the Church and part of the property. That parking area has 32 parking spaces.

* * * *

There are approximately fifty (50) member families on the membership rolls of the Church.

* * * *

Church services are held on Sunday mornings from 11:00 a.m. to 12 noon and then from 12 noon to 1:00 p.m. On Wednesdays and Fridays, prayer services are held from 7:00 p.m. to 8:00 p.m.

* * * *

The Church has no intention of renting the facility to any outside group.

* * * *

The Church offered as a condition in the special use permit that the Church would not utilize the Property for any purpose whatsoever during periods when the parking is occupied by the School District.

* * * *

The Church has no intention of cooking or preparing food on the premises.

* * * *

The Church would accept as a condition of the special use permit to limit the total occupancy of the Property to no more than one hundred (100) persons.

Based upon the evidence adduced at the public hearing, and the documentation submitted to the Board in support of the application, the Board makes the following findings of fact:

- 1) The applicant is seeking a special use permit to maintain a church at the property known as 236 Willis Avenue;
- 2) Pursuant to Village Code §30.31(B)(5), a church use may be maintained in the B-1 Zoning District when authorized by the Board of Trustees as a special use;
- 3) The applicant has assumed the lease entered into by the Mineola Order of Odd Fellows and the Mineola Union Free School District on February 26, 2002;
- 4) The lease is for a term of ten (10) years with an option to extend the lease for an additional ten (10) year period;
- 5) Pursuant to the lease, the Mineola Union Free School District has use of 25 parking spaces at the parking lot adjacent to 236 Willis Avenue;
- 6) The Mineola Union Free School District has access to the parking spaces from Monday to Friday between the hours of 7 AM and 5 PM, excluding public holidays;
- 7) The Applicant purchased the property on October 18, 2006;

- 8) The Church has approximately fifty (50) member families on the membership rolls;
- 9) The Church's services are held on Sunday from 11:00am to 12 noon and 12 noon to 1:00pm. Wednesday and Friday evening prayer services are held from 7:00pm to 8:00pm.
- 10) The Applicant has no plans to alter the exterior of the building or to make any additions to increase the size of the building;
- 11) The Applicant has no intention of renting the facility to any outside group;
- 12) The Applicant is agreeable to limiting the total occupancy of the building to no more than one hundred (100) persons;
- 13) The Applicant will not utilize the premises while the Mineola Union Free School District has access to the leased parking lot;
- 14) The subject property will provide adequate parking (32 spaces) to accommodate the proposed church during permitted hours of operation and subject to the occupancy limit; and
- 15) Although members of the public raised questions regarding the validity of the Church during the public hearings, the Board has assumed the validity of the Church and, as such, accommodations have been made to the Church based upon this assumption and pursuant to law.

Based upon the above findings, it is hereby determined that the proposed use, subject to the ongoing and continuous conditions stated below, which will be recorded with the deed for the property as Covenants and Restrictions and filed with the Nassau County Clerk, is appropriate.

IT IS THEREFORE RESOLVED, that the Special Use Permit is GRANTED subject to the following conditions:

- 1) The Applicant will limit the total occupancy of the Property to no more than one hundred (100) persons;
- 2) The Applicant will not utilize the property for any purpose whatsoever during periods when the parking lot is occupied by the School District (Monday through Friday between the hours of 7:00am and 5:00pm, excluding public holidays);
- 3) The Applicant will not rent the property to outside groups for any non-church service or non-church related activities;
- 4) The Applicant will not prepare or cook food upon the premises;
- 5) Each of these conditions is material to the approval granted by the Board of Trustees. Violations of any of the conditions shall subject the applicant or its successors to enforcement proceedings pursuant to the Village's Municipal Code, including possible revocation of this special use permit;
- 6) The representations made by Applicant on the record in this proceeding have been deemed material to this application and have been relied upon by the Board of Trustees in its deliberations and decisions. Said

representations are deemed to be part of the conditions of this special permit;

- 7) Violation of a condition set forth in this decision shall be deemed a violation of the Village Zoning Law and shall subject the owner or occupant of the premises to all penalties set forth in the Zoning Law;
- 8) Applicant shall acknowledge that the conditions set forth in this decision are reasonable, fair and equitable. In the event that any legal action or proceeding shall be instituted by the Village in order to enforce any condition herein, the Village shall be entitled to an award of attorney's fees in the event that it shall prevail in any such action or proceeding; and
- 9) The Applicant shall prepare Covenants and Restrictions in recordable form and acceptable to the Village Attorney incorporating these conditions.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Lawrence A. Werther

Vote:

Yes

No

Abstain

Trustee Paul A. Pereira

Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Village Attorney John M. Spellman announced that the Village of Mineola Fence Committee had completed its report and made recommendations for Building Code revisions regarding fences. He noted that copies have been distributed to the Village Board for review.

Mayor Jack M. Martins thanked the members of the Fence Committee for volunteering their time in service of their fellow residents and requested that the Board not take action on the report until input was received from the Village's planning consultant, John Shapiro, as early as the Board's July 2, 2008 meeting.

Mayor Martins requested a motion to close the Work Session at 7:40pm.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Lawrence A. Werther

Vote:

Yes

No

Absent

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Mayor Martins opened the Public Meeting at 7:40 pm.

Mayor Martins reported on the Blood Drive at Village Hall sponsored by the Mineola Fire Department that took place June 4 and congratulated the Fire Department officers who were installed this week. Mayor Martins also thanked the Veterans of Foreign Wars

and American Legion Posts for conducting the Annual Memorial Day Parade. Mayor Martins announced the opening of the John S. DaVanzo Pool would be June 14 and reported on the success of Jack's Run for Autism Awareness held June 7. Mayor Martins also reported that he took part in awards ceremonies at Mineola High School and Mineola Middle School.

Trustee Lawrence Werther congratulated Mayor Martins and the Martins family on the birth of their daughter, Caroline Ann. Trustee Werther reported on the annual inspection of the Mineola Fire Department prior to the Memorial Day Parade and the Boy Scouts Pancake Breakfast. Trustee Werther announced that the next meeting of the Mineola Chamber of Commerce would be June 17 with Nassau County District Attorney Kathleen Rice scheduled to be the featured speaker.

Trustee Paul Cusato reported on the Memorial Day Parade and announced that Ex-Chief Walter Langer had been named Mineola Firefighter of the Year.

Trustee Thomas Kennedy reported on the Memorial Day Parade, the Fire Department Inspection, and welcomed home firefighter John Fucci from Basic Training.

Trustee Paul Pereira reported on the Mineola Fire Department Inspection and the success of the veterans' video tribute that aired on Mineola TV on Memorial Day.

Nine speakers addressed the Board.

Mayor Martins requested a motion to close the meeting at 10:00 pm.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul Pereira

Vote:

Yes

No

Absent

Mayor Jack M. Martins
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Trustee Thomas F. Kennedy
Trustee Paul A. Pereira

Respectfully submitted,

Joseph R. Scalero
Village Clerk

As a result of a coordinated effort by village mayors to have input into tipping fees and regulations, the Town had agreed to delay implementing Flow Control until a compact could be developed between village and the Town to include an "opt-out" provision for villages wishing to dispose of solid waste at other facilities. Mayor Martins announced that the Town had unilaterally announced that Flow Control was back under consideration without input from villages. Mayor Martins also noted that, without input or contractually determined tipping fees, the Town would be free to charge villages whatever fees they wanted to charge without limit.

Mayor Martins also announced that the Board would be holding a Public Hearing on December 17 to adopt a newly created Cold War Veterans Tax Exemption for Mineola residents. Mayor Martins also reported on a meeting he had with Legislator Richard Nicoletto and the Mineola District Council of PTA's to organize an effort to pressure Nassau County to install a traffic light at the Herricks Road/Jackson Avenue intersection because it is the primary pedestrian crossing point for Mineola's high school students and parents. Mayor Martins also announced the Village Tree Lighting ceremony would be December 5 at 7:00 pm and invited all Mineola residents to participate in the holiday season kick-off.

Trustee Lawrence Werther discussed his opposition to the Town of North Hempstead implementing Flow Control, especially in light of its refusal to share with villages its sales tax revenue, and commented on vandalism and the lack of police protection and enforcement issues.

Trustee Paul Cusato discussed the Mineola Fire Department's participation in the Wounded Warrior Project to assist Iraqi War veterans and chastised *Newsday* for its minimal coverage of a recent countywide Wounded Warrior event.

Trustee Thomas Kennedy welcomed all residents to the annual Tree Lighting festivities and thanked all who participate in its planning.

Trustee Paul Pereira urged residents to support the Mayor and the PTA's efforts to get a traffic light at Jackson Avenue because of the potential danger to students, and asked residents to support the many holiday food drives that are taking place throughout our community. Trustee Pereira also congratulated Mineola resident Carlos Mendes on a successful season with the Red Bulls professional soccer team. Mr. Mendes (No. 4) is a lifelong resident of Mineola.

10 speakers addressed the Board

Mayor Martins requested a motion to close the Public Meeting at 9:40 pm.

Motioned by Trustee Lawrence A. Werther
Seconded by Trustee Paul S. Cusato

Vote:

Yes

No

Abstain

Trustee Paul A. Pereira
Trustee Thomas F. Kennedy
Trustee Lawrence A. Werther
Trustee Paul S. Cusato
Mayor Jack M. Martins

Respectfully submitted,

Joseph R. Scalero
Village Clerk