

Suffolk County Village Officials Association QUARTERLY JOURNAL JANUARY 2021



MESSAGE FROM THE PRESIDENT

Mayor Raymond Fell
Village of Bellport



Governing on a local level comes with both challenges and opportunities. As we begin 2021, we are hopeful that the new year will be kinder to us all and give us the opportunity to focus on issues and engage in discussions in person, as opposed to using virtual platforms for our meetings and get togethers. SCVOA is committed to providing support and leadership to assist the villages in Suffolk County in any way we can.

Currently New York State has mandated that villages create two plans: the first plan is for villages with police departments to engage their public and to update their “use of force” regulations. The second plan is for all public employees to develop plans to adequately protect workers in the event of another state disaster emergency involving a communicable disease. Both plans are to be finalized and submitted to New York State by April 1, 2021. SCVOA is developing a boilerplate for both plans and will share them with villages when they are complete.

SCVOA we will be hosting a number of educational seminars and networking events in the months ahead first virtually, and then, hopefully, in person as the year progresses.

On behalf of the SCVOA Executive Board I would like to thank all of the mayors, village officials and associate members who actively participate in SCVOA activities and events.

Please call or email us with your suggestions or concerns.

Best wishes to everyone,

**NOT SO DISTANT: COMMUNICATING WITH
CONSTITUENTS DURING A CRISIS**
Rebecca Ruscito
NYCOM Counsel

The COVID-19 pandemic has shed new light on the importance of municipal messaging, and the use of social media platforms to deliver messages and communicate with the public has newfound

relevance. This article provides central lessons for villages to inform their use of social media and ensure effective communication with residents during times of crisis.



Lesson #1: Be Clear, Direct, and Illustrative (Make Sure to Post Pictures)

When presenting information and guidance to the public, the most successful speakers use language that is clear, direct, and illustrative. Local officials should strive to communicate during times of crisis in a way that represents the significance and seriousness of the circumstances, but also in a way that is clear and empathetic. Social media platforms allow villages to incorporate images and visual cues to create a more dynamic experience for the reader. A compelling picture or graph displayed on users' social media feeds may encourage them to read the entire post rather than to simply scroll past a lengthy written message.

Lesson #2: Social Media Accounts Create Virtual Public Squares (Don't Forget About the First Amendment)

Using social media accounts to transmit messages to the public creates a public forum when the account enables followers to comment on or reply to government posts. Consequently, content-based restrictions, burdens, or proscriptions of speech occurring in virtual public forums are likely to violate the First Amendment. Deleting disagreeable or politically charged responses is tantamount to content-based discrimination and could violate the Constitution. Blocking users from accessing government accounts has a similar result that also runs afoul of the First Amendment.

Lesson #3: Be Careful When Posting as a Private Citizen (Personal Social Media Pages May Be Subject to the First Amendment Too)

First Amendment forum analysis may also be implicated when a governmental actor or public official creates or controls an account that is used to conduct government business and deliver public messages. While an account held by a public official does not automatically create a public forum, the way in which the account is used by an official and made available to the public speak to the public nature of the interactive space. Therefore, when a governmental actor uses an account as a public forum, the First Amendment prohibits the exclusion of speech on the basis of the viewpoint.

Lesson #4: Avoid Posting Pitfalls (Adopt a Social Media Use Policy)

Ensuring that both the village and the public use social media pages properly requires the adoption of a social media use policy. The social media use policy should articulate the rules of conduct for public comment on the government's official social media pages. The policy should be posted on the municipal website and, to the extent practicable, made accessible on each of the social media accounts used by the local government. Ensuring social media use policies are readily available will not only foster compliance, but also help keep social media users on notice that such regulations are in place.

Lesson #5: What's Posted on the Internet Lives Forever (Records Must Be Preserved in Accordance with the Record Retention Law)

The use of social media pages involves the creation and preservation of public records. All village records are subject to the Retention and Disposition Schedule for New York Local Government Records (LGS-1). The LGS-1 does not address "social media posts," but depending on the content of a given post, different retention schedules will apply.

For a more in-depth discussion of communicating to constituents during a crisis, see the June 2020 edition of the NYCOM Municipal Matters Magazine.

1 Wagschal v. Skoufis, No. 19-cv-02393, 2020 WL 1033873 (SDNY March 3, 2020).

2 Knight First Amendment Institute v. Trump, 928 F.3d 226 (2d Cir. 2019), hereinafter Knight II.

3 See, Knight First Amendment Institute v. Trump, 302 F.Supp.3d 541, 569-570. (2018).

4 Id. at 566.

5 Knight II, *supra* note 2, at 237.

MEET VILLAGE OF AMITYVILLE MAYOR DENNIS SIRY

Dennis Siry has been mayor of the Village of Amityville since 2017. Prior to serving as mayor, he was elected as a trustee and was also a member of the Amityville Zoning Board of Appeals, including six years as chairman, and a member of the Amityville Code Revision Committee. A retired Lieutenant of the New York City Fire Department whose career spanned 30 years, most recently he was assigned to its Specialized Marine Operations Unit.



Throughout his term as mayor, Dennis has been a proponent of sustainability and fiscal responsibility. He instituted a village-wide conversion to LED streetlights and achieved NYSEDA Clean Energy Community status. His team's sound budgetary management earned the village a two-step increase in its S&P bond rating and an upgrade to its Moody's rating. He looks forward to working with businesses, facilitating new residential options to meet the unmet need for high-quality rental housing, and making environmentally sound, transit-oriented improvements. These include the 117-unit Village by the Bay and the 338-unit AvalonBay complex on the former Brunswick Hospital property. Both of these properties will anchor Amityville's new transit-oriented district and contribute greatly to downtown revitalization. Mayor Siry has also improved the Amityville Beach facilities and has secured state funding to beautify Route 110 and create a safer, more welcoming entrance to the village.

Mayor Siry is a great champion of events that bring Amityville's residents together and celebrate what makes the village special. Prior to the COVID-19 pandemic, the village hosted several popular annual events, including a July 3rd family fun day street carnival and beach blast. This year's gatherings included drive-in movies and concerts at the village beach which allowed for social distancing. In September, Mayor Siry worked with the Town of Babylon and the Babylon Citizens Council on the Arts (BACCA) to host the first live drive-in concert of its kind in Babylon, showcasing a diverse line-up of homegrown musical talent and encouraging local dining and shopping.

Mayor Siry is admired for his friendly and casual approach to the business of the village. He routinely goes out of his way to strike up conversations with residents and business owners. Whether he is working with community service organizations, is visiting local school children to teach them about civic responsibility or marching alongside veterans at the Memorial Day parade, Mayor Siry values the people and traditions of Amityville, and contributes greatly to Amityville's reputation as the "Friendly Village by the Bay."

Mayor Siry is a member of the Executive Board of SCVOA and currently serves as 3rd Vice President. He is an avid guitar player and music lover who is always up for a day at the beach or a round of golf for charity. An Amityville resident since 1970, Dennis has been married for 34 years to Nancy Mae (Kretz) and is the proud father of three adult children. His large extended family has lived in Amityville for generations and many are active in the community.

COUNSEL'S CORNER

SERVICE ANIMALS & AMERICANS WITH DISABILITIES ACT: DO "EMOTIONAL SUPPORT" ANIMALS QUALIFY FOR SPECIAL STATUS?

Hon. Peter A. Bee, Esq.

Jason Greenfield, Esq.

Bee Ready Fishbein Hatter & Donovan

The adage goes, "A dog is a man's best friend." But suppose that is all the dog is ... a comforting friend? In other words, do "emotional support dogs" qualify for special status under the



Americans with Disabilities Act (“ADA”)? The answer is, generally, “no!”

Under the ADA, local governments, businesses, and non-profit organizations which serve the public, must make “reasonable modifications” in their policies to accommodate people with disabilities. This extends to allowing disabled individuals to be accompanied by service animals in all public facilities. However, “service animals” are defined as “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. The work or tasks performed by a service animal must be directly related to the individual’s disability.”

A dog whose sole function is to provide comfort or emotional support generally does not qualify as a service animal under the ADA, the New York State Civil Rights Law, or the New York State Human Rights Law. While an exception exists under the federal Fair Housing Act, in which housing providers must consider reasonable accommodations for disabled individuals who seek to use a dog for emotional comfort, that exception is generally inapplicable to villages since most villages are not “housing providers.”

When it is not obvious whether a given dog is a qualified “service animal,” a party being asked to accept the dog as a “service animal” may only ask: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? It is prohibited to inquire about the nature or extent of a person’s disability or require documentation (such as proof that the animal has been certified, trained, or licensed as a service animal).

So while a “comfort dog” does not generally qualify as a “service animal” (except in housing situations), the law makes it (more or less) an “honor system” to determine whether Man’s Best Friend does – or doesn’t – qualify to join him at the restaurant for dinner!

**FOCUS ON:
SCVOA ASSOCIATE MEMBER
BROWN ALTMAN & DILEO, LLP**

Brown Altman & DiLeo, LLP (BA&D) proudly enters its 14th year with great expectations and continued confidence in Long Island’s future. Founded in February 2008 as Brown & Altman by partners Keith P. Brown, and David N. Altman, the firm has become a recognized leader in the legal and business community. The firm and its clients also benefit from the guidance of



partner Michael J. DiLeo, who joined the firm in March 2009, and whose name, this past year, was added to the firm’s masthead. In addition, in November 2020, partner Keith P. Brown became a newly elected member of the New York State Assembly, serving the 12th District. Strategically positioned, BA&D welcomes the opportunity to continue its service as a valued resource for Suffolk County’s municipalities and its clients.

BA&D provides a broad range of legal services, with its focus on commercial real estate and municipal law. The firm’s practice spans the breadth of Long Island, with projects in many of Suffolk County and Nassau County’s towns and villages. BA&D’s principal areas of practice include land use and zoning, transactional real estate, lender representation, commercial leasing, commercial litigation and corporate work. The firm also works closely with local municipalities to foster cooperation with developers, resulting in completed projects that are a recognized benefit to the community.

BA&D’s entrepreneurial approach to business has further broadened the firm’s connection to Long Island. The firm is a proponent of alternative energy development, recognizing its benefits to local municipalities and their residents, working with developers in Suffolk County and Nassau County to diversify the Island’s energy resources. In addition, BA&D also works closely with the food and beverage industry, recognizing the geographic importance of Long Island and its growers, producers and manufacturers.

The firm has been an associate member of SCVOA for eight years and actively participates in the organization's programs and events. For the past four years, BA&D partner David N. Altman has been a presenter at SCVOA's semi-annual continuing education seminars. BA&D highly values its relationship with SCVOA and we offer our gratitude to be of service to its members and associate members.

PHOTO: Pictured from left to right are firm partners David N. Altman, Keith P. Brown and Michael J. DiLeo

WELCOME TO OUR NEWEST ASSOCIATE MEMBER!

Cameron Engineering & Associates

Cameron Engineering is a full service consulting engineering and planning firm founded in 1985. The firm is comprised of experienced and qualified engineers, landscape architects, planners, facility operators, and environmental scientists dedicated to providing professional, timely and responsive services to our clients.

See full list of our Associate Members below

REMINDER TO ALL VILLAGES:

**NEW YORK STATE REQUIRES THAT
YOUR POLICE REFORM PLAN &
EMERGENCY HEALTH PLAN
BE COMPLETED BY APRIL 1, 2021**

For more information, contact SCVOA at mail@scvoa.com

SCVOA EXECUTIVE BOARD

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With great appreciation to our
SCVOA ASSOCIATE MEMBERS

7-Eleven. Contact: Sean O'Neill, Sean.o'neill@7-11.com
Convenience store business.

R.S. Abrams & Co. Contact: Marianne Van Duyne, mvanduyne@rsabrams.com
Accounting and consulting firm primarily serving school districts, not-for-profit groups, and state & local governments.

Absolute Auctions & Realty. Contact: Philip Gableman, info@aaructions.com
A leader in the auction industry of both real and personal property assets for over 70 years.

Albrecht, Viggiano, Zureck & Company (AVZ). Contact: Jeff Davoli, jdavoli@avz.com
Certified public accounting firm.

Altice USA. Contact: Frank Alleva, Francis.alleva@alticeusa.com
Communications and media company.

Amato Law Group. Contact: Andrea Rothamel, arothamel@amatofirm.com
Law firm focusing on land use, zoning, real estate, lending, environment, telecommunications, commercial litigation.

American Red Cross LI. Contact: Neela Lockel, neela-lockel@redcross.org.
Serves more than 2.8 million people on LI, responding to emergencies and disasters across the region.

Arthur J. Gallagher Risk Management Services. Contact: Philip C. Westerman, phil_westerman@ajg.com
Provides highly specialized public sector risk management and insurance solutions.

AT&T. Contact: Brandon V. Ray, brandon.ray.1@att.com
International telecommunications company.

AvalonBay Communities Inc. Contact: Michael Adamo, michael_adamo@avalonbay.com
Real estate investment trust focused on developing apartment communities in high barrier-to-entry markets.

Town of Babylon IDA. Contact: Matthew McDonough, mmcdonough@babylonida.org
Town of Babylon's central vehicle for economic development.

Bee Ready Fishbein Hatter & Donovan. Contact: Peter Bee, Esq, pbee@beereadylaw.com
Law firm focused on representing local government entities.

Belfor Property Restoration. Contact: Michael A. Loguercio Jr., michael.loguercio@us.belfor.com
Provides disaster restoration and emergency response services.

Brown, Altman & DiLeo, LLP. Contact: David N. Altman, Esq, altman@brownaltman.com
Law firm focusing on all phases of commercial real estate and municipal law.

Cameron Engineering. Contact: John Cameron, jcameron@cameronengineering.com
A full service consulting engineering and planning firm founded in 1985.

Community Development Corp of LI. Contact: Gwen O'Shea, goshea@cdcli.org.
Regional non-profit organization formed to help create affordable housing opportunities.

Comp Alliance. Contact: John Triessel, jtriessel@wrightinsurance.com
Provides comprehensive workers' compensation coverage and services to New York's municipalities and schools.

Corporate Synergies Group. Contact: Bryan McManaway, Bryan.McManaway@corpsyn.com
A national employee benefits brokerage and health & welfare consultancy.

Law Offices of Mark Cuthbertson. Contact: Mark Cuthbertson, Esq, mcuthbertson@cuthbertsonlaw.com
Represents municipalities, community development agencies, and zoning applicants in all phases of land use development.

Damianos Realty Group, LLC. Contact: Cristofer Damianos, cdamianos@drgrealty.com
Damianos Realty Group is a commercial real estate company.

Delaware North. Contact: Chuck Kilroy, ckilroy@delawarenorth.com
Privately-held hospitality and food service company.

Discovery Land Company. Contact: Mark Hissey, mail@discoverylandco.com
Private resort community development company.

Empire BlueCross BlueShield. Contact: Dominick Pellegrino, dominick.pellegrino@empireblue.com
Largest health insurer in New York State.

Farrell Fritz. Contact: Anthony Guardino, Esq, aguardino@farrellfritz.com
Municipal law firm focusing on zoning, real estate, and land use.

Flushing Bank. Contact: Thomas Buonaiuto, tbuonaiuto@flushingbank.com
NYS bank providing wide range of banking and investment services.

Fundamental Business Service, Inc. Contact: Dennis Farrell, dfarrell@fbsnet.com
Provides data management and business solutions for local municipalities.

GEI Consultants, Inc., PC.
Contacts: Errol S. Kitt, ekitt@geiconsultants.com & Gary A. Rozmus, grozmus@geiconsultants.com
Provides geotechnical, environmental, coastal resources, and ecological consulting and engineering services.

Good Energy. Contact: Edward Carey, EdwardCarey@GoodEnergy.com
Residential, commercial, and industrial energy procurement consultant and broker, and the number one designer and operator of community energy aggregations in the United States.

H2M Architects & Engineers. Contact: Joyce Cuggino, jcuggino@H2M.com
Architectural, engineering, and environmental consulting firm.

Hawkins Delafield & Wood, LLP. Contact: Robert P. Smith, rsmith@hawkins.com
Law firm focusing on public finance and public projects.

Island Pump & Tank. Contact: Joe Diandrea, JoeD@islandpumpanktank.com
Provides comprehensive environmental and petroleum services to a variety of industries.

J. R. Holzmacher PE, LLC. Contact: J. Robert Holzmacher, bob@holzmacher.com
Engineering firm servicing industry, government, municipalities, law firms, and other consulting firms.

HomeServe USA. Contact: Myles Meehan, myles.meehan@homeserveusa.com
Independent provider of emergency repair service plans.

Hotel Indigo East End. Contact: Rob Salvatico, rsalvatico@jaralproperties.com
Family-owned and operated hotel, restaurant and lounge.

Kaufman Dolowich & Voluck LLP . Contact: Erik Ortmann, eotmann@kdvlaw.com.
Law firm known for numerous practice areas and commitment to community service.

Lamb & Barnosky, LLP. Contact: Eugene Barnosky, erb@lambbarnosky.com
Full-service law firm.

The Lauro Group. Contact: Robert A. Lauro, rlauro@thelaurogroup.com
Civil land use consulting firm servicing national chain developers.

Long Island Builders Institute. Contact: Mitch Pally, mitch@libi.org
Building industry trade association of Nassau-Suffolk builders, developers, and remodelers.

Long Island Contractors' Association (LICA). Contact: Marc Herbst, info@licanys.org
LICA represents LI's heavy construction contractors, subcontractors, suppliers and industry supporters.

Long Island Housing Partnership, Inc. Contact: Peter J. Elkowitz, Jr., pelkowitz@lihpc.org
Provides housing for low-income residents.

Marcum LLP. Contact: Jeffrey M. Weiner, Jeffrey.Weiner@marcumllp.com
Accounting and financial advisory firm.

Nassau County Village Officials Association (NCVOA). Contact: Ralph J. Kreitzman, exec@ncvoa.org
Not-for-profit organization representing all of Nassau County's 64 villages.

New York Cooperative Liquid Assets Securities System (NYCLASS)
Contact: Shawn Cullinane, shawn.cullinane@newyorkclass.org
Short-term, highly liquid investment fund designed specifically for the public sector.

Joseph W. Prokop, PLLC. Contact: Joseph W. Prokop, Esq, jwprokopesq@aol.com.
Specializes in village law and represents villages as village attorney and counsel.

PSEG Long Island
Contacts: Karyn Kemp-Smith, Karyn.kemp-smith@pseg.com & Vincent Frigeria, Vincent.frigeria@pseg.com
Industry-leading electric company providing service on LI and The Rockaways.

Public Employer Risk Management Association (PERMA). Contact: Leah Demo, ldemo@neami.com
Largest self-insurance pool for public entities in New York State.

Strategic Planning Systems Inc. Contact: Michael Dawidziak, miked@strategic-planning.com
Specializes in all aspects of direct voter contact and public opinion services.

Suffolk County Industrial Development Agency (IDA). Contact: Kelly Morris
Promotes economic development within Suffolk County.

Suffolk Transportation Service, Inc. Contact: Tom McAteer, tmcateer@suffolkbus.com
Provides school bus and public transportation services.

Tate Grossman Kelly & Iaccarino, LLP. Contact: Riccardo Iaccarino, riaccarino@bislawfirm
Law firm focusing on a broad range of practice areas.

Total Technology Solutions. Contact: Lisa Guerin, lguerin@total.us.com
Full-service IT solutions provider.

Tritec Building Company. Contact: Robert Loscalzo, robl@tritecre.com.
Provides construction services as general contractor, construction manager, or design builder.

U.S. Green Building Council-LI Chapter (USGBC-LI). Contact: Daniel Busi, dbusi@usgbc-li.org
Encourages and facilitates sustainable building practices on Long Island.

VHB. Contact: Kevin Walsh, kevinwalsh@vhb.com
Provides planning, transportation, land development and environmental services along the east coast.

Vision Risk Management Services. Contact: Al Levy, alevy@vrmanagement services.com
Provides innovative solutions to claims management.

REMINDER:

Suffolk County COVID Municipal Updates

Thursdays from 4:00 PM to 5:00 PM

1-888-398-2342

Access Code: 7032636

SCVOA's mission is to inform, support, and advocate on behalf of the 32 villages of Suffolk County. The Executive Board of SCVOA works tirelessly in its commitment to create a strong, effective, cohesive organization that promotes an exchange of ideas and strategies that enable village government to faithfully serve the more than 125,000 Suffolk County village residents.

**STAY SAFE!
WEAR A MASK!**
