TOWN OF NORTH HARMONY
BOARD MEETING
Monday, JULY 14, 2008 8:00pm

SALLY P. CARLSON, SUPERVISOR	**PRESENT**
RALPH WHITNEY, COUNCILMAN	**PRESENT**
ART THOMAS, COUNCILMAN	**PRESENT**
BETH WARD, COUNCILWOMAN	**ABSENT**
FRANK STOW, COUNCILMAN	**PRESENT**

- **PLEDGE**

- **ANNOUNCEMENT**

Mrs. Carlson said the Planning Board will be meeting with John McGraw on 7/22/08, 7:00 PM at the North Harmony Sr. Citizen Center to present three different alternative Bootey Bay development ideas.

- **MINUTES**

Mrs. Thomas said there were two corrections that had been made to the minutes prior to entry in the minute book. Under Public Comment (pg.1), *Victoria Rd.* was changed to *Longview Ave.* Under Motion # 88 of 2008 (pg. 4) the word *fiscal* was replaced in both usage locations with *calendar*.

MOTION #96 OF 2008
ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. WHITNEY, THE CORRECTED/AMENDED MINUTES OF THE 6/9/08 BOARD MEETING WERE APPROVED **UNANIMOUSLY.**

- **PUBLIC COMMENT**

- **CORRESPONDENCE:**

1. Lyle Jensen – Letter expressing interest in Town Board position

Mrs. Carlson said she has received and responded to two communications received by Mr. Jensen. She said Mr. Jensen has circulated and filed his petitions for the position of Town Councilman.

2. Lyle Hajdu – Chaut. Lake Management (CLMC)

CLMC was approached by the CWC who requested $25,000 for a down payment on two parcels of land. Mr. Hajdu has poled town supervisors for their opinion of the request since it requires the use of tax funded dollars to take taxable parcels off the rolls. Of the municipalities responding 20% approved, 30% opposed and 50% expressed reservations and concerns that require additional information before decision making.

3. NYMIR – Scrap metal price increases from $77 in 2001 to $500 per ton brings increasing theft (i.e. hydrants, etc.) and copy of annual report

4. <u>Planning Board / Zoning Board Minutes received</u>

Don McCord continues to work with the Planning Board on the Comprehensive Plan. He and the board will send out a survey soon to get public input on the plan.

5. <u>Hotel Correspondence:</u>

Tom & Linda Luderbach, Pt. Chaut.	**Opposed**	**Charles Tea**	**Opposed**
William Pihl, N.H.	**Opposed**	**Jodie Terlisner, N.H.**	**Opposed**
Chuck & Linda Halfast, Greenhurst	**Opposed**		

6. <u>CHRIC – Annual Report</u>

7. <u>Tri-County Tobacco Free Environment</u>

Groups of agencies to reduce the use of tobacco and exposure to second hand smoke requesting a town resolution to prohibit the use of exterior tobacco advertising in stores in the county. The board decided not to act at this time.

8. <u>Preston Buchtel</u>

Mr. Buchtel provided a number of addresses and information regarding funding for a Comprehensive Plan. **Mrs. Carlson** said the Planning Board wanted to develop their own plan and she will hold the list until the board makes their decision.

9. <u>Empire State Wind Energy</u>

Mrs. Carlson said that Keith Pitman of ESWE had acknowledged receipt from the town clerk of Resolution #53 of 2008. Mrs. Carlson said she would prefer not to act until next month after she has attended the Wind Energy Conference. She said she and Mr. Stapleton would also like to meet with the IDA before a decision to enter into any agreement is made.

10. <u>Time Warner – Publicly Traded</u>

Mrs. Carlson said 100% of the common stock will be publicly traded and there may be further cancellation of stations.

11. <u>NYS Ag. & Mkts. – Proposals for Farmland Protection</u>

12. <u>Seneca Trail</u>

Mrs. Carlson said Kim Sherwood is working under contract with the Seneca Trail Resource Conservation and Development Council as the Conewango Creek Watershed curator. SPRCD is currently working on a rapid watershed assessment. She said Mr. Sherwood has developed an excellent program for watershed education of municipal officials.

Mr. Lloyd said Mr. Sherwood is extremely knowledgeable and has requested a meeting with him to go over the towns' hazard mitigation plan. He said there could be some very good feedback from this meeting and tour. He said the first phase would be to view the area and the second would be coming up with actual prices and materials. Mr. Lloyd said Mr. Sherwood advocates doing things in the quickest and most cost effective way to make an impact on the area.

13. <u>Access CH5</u>

14. <u>National Grid – Power Outages</u>	**Tues. 7/15/08**	**rain date**	**Thurs. 7/17/08**
	Tues. 7/22/08	**"**	**" 7/24/08**

15. <u>Peter Evans opposed to County doing assessing – (Does the town want to go on record</u> in <u>opposition too?)

Mrs. Carlson said Mr. Evans has formed a group who are concerned about real property assessment. She said that the town is already a part of a very effective group under Mr. Holcomb. She said that based on what Mr. Holcomb has said she feels it will be significantly more expensive if the county takes over assessing. She said Mr. Evans had spoken to Darin Schultz about the proposed county takeover and was told that if the CAP plan is adopted, it will probably require annual assessment. Mr. Evans asked if the county wide program would have to be approved by each entity in the county. Mr. Schultz said that what the county is looking for at this time is shared assessment groups such as exist under Mr. Holcomb's office. Mr. Schultz said the local assessors will only assess, the county will do the actual evaluation. Mr. Evans said this means the loss of local control of property value and taxes. Mrs. Carlson asked for board authorization to write a letter of support in opposition to the county taking control of either assessing or evaluation of property.

<u>MOTION #97 OF 2008</u>
<u>ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS, THE SUPERVISOR WAS AUTHORIZED TO SEND A LETTER TO MR. SCHULTZ IN OPPOSITION OF COUNTY WIDE ASSESSMENT AND EVALUATION OF PROPERTIES. **THE MOTION WAS CARRIED UNANIMOUSLY.**</u>

16. <u>NYS Justice Court Administration – 2008 Justice Court Assistance Grants must be filed by 8/31/08 with a maximum of $30,000</u>

Mr. Peacock said these monies cannot be applied for until the Unified Court System has completed its assessment. He said the Court Clerk has sent the paperwork, but no reply has been received as to a specific date they will do the evaluation.

17. <u>Talk of the Towns – Bumper Stickers</u>

18. <u>Ken Frantz – List of Veterans</u>

Mrs. Carlson said Mr. Frantz has been working on a list of veterans and at the completion she would like to form a committee to discuss ways in which the town can honor its veterans (i.e. monument, etc.).

Mr. Thomas and Mr. Whitney agreed to be on the committee.

19. <u>Brenda Eastman – Longview Ave.</u>

Mrs. Carlson said she had received a letter from Ms. Eastman expressing concern about the work at Longview. Mrs. Carlson said that Rex Tolman had contacted her about having a topographical survey done of the road and she had authorized Dan Berry to perform the survey. In the course of the survey they went onto the Eastman property and cut some vegetation. Mrs. Carlson said a meeting was scheduled on Thursday with Ms. Eastman and other property owners to discuss the work necessary. She said tentatively the work will be done in the fall.

- **<u>OLD BUSINESS:</u>**

- **<u>TOWN BOARD VACANCY – Republican Committee Recommendation FRANK STOW</u>**

Mrs. Carlson said there is a vacancy on the town board and Diana Frantz of the Republican Committee is present to give the committees recommendation to fill that position. Mrs. Carlson said Frank Stow has been recommended to fill the vacant position left by Robert Yates.

MOTION #98 OF 2008
ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. WHITNEY, FRANK STOW WAS APPOINTED TO FILL THE VACANT TOWN COUNCIL POSITION OF ROBERT YATES TO COMMENCE IMMEDIATELY AND LAST UNTIL 12/31/08. **THE MOTION WAS CARRIED UNANIMOUSLY.**

The **Town Clerk** administered the oath of office to **Mr. Stow** and he took his position with the board.

- **LIGHTHOUSE PARK**

Work continues at the park (painting and repair of picnic table). Contractor Richard Finch will be starting to install the post and ropes as well as work on the sidewalk.

- **VIOLENCE IN THE WORKPLACE**

The committee meeting was held and work books and the DVD have bee received. Mrs. Carlson asked that a time be established soon to hold the employee workshop. Mrs. Miller and Mr. Thomas were thanked for their efforts in setting up the DVD player.

- **DUDLEY BREEDS' – Additional Work cost $2,600.00**

Mr. Breeds has been working with the Planning Board on what might happen in the Stow interchange. Mrs. Carlson has asked for a price on sample architectural drawings for what the PB might like to see. She said it may be awhile before their surveys are done and they need public input. She asked if the board wanted to hire Mr. Breeds for additional work or wait until further input is received.

MOTION #99 OF 2008
ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. WHITNEY, IT WAS DECIDED TO **TABLE** HIRING MR. BREEDS FOR THE ADDITIONAL WORK UNTIL MORE INFORMATION IS GATHERED. **THE MOTION WAS CARRIED UNANIMOUSLY.**

- **RABIES CLINIC**

Mrs. Thomas said the Rabies Clinic held on 6/24/08 was a big success. She said 184 dogs and cats received vaccinations. She thanked Mr. Rice (Veterinarian), Frank and Vickie Stow, Robin Miller, Penny Best, Jackie and Mark Stow, Charlotte and John Grover, Trudy Reisenweber and the Ashville Fire Department for their help in hosting the clinic.

- **YOUTH REC (*copy of report included in minute book)***

Mrs. Carlson said she has received a report from Jennifer Hickman, Youth Rec Director. There are 38 youth participating in the program (avg. attendance 25-30 day).

- **ASHVILLE DAY 7/19/08**

Mrs. Thomas gave a brief report from the committee on Ashville Day.

- **TOWN PICNIC 8/16/08 4-7 PM at Butts Park**

Mrs. Thomas briefly outlined the event and encouraged all residents and property owners to attend the picnic and pig roast. All information can be found on the website at www.townofnorthharmony.com .

- **LONGVIEW – Topographical Survey Dan Barry $2,800**
  Covered previously under Correspondence item 19.

- **NEW BUSINESS:**

- **TIME WARNER FRANCHISE (for former Adelphia Franchise) Suggest raising % from 3 to 5 to cover Tn/Cnty tax – Set up Public Hearing and Advertise Twice**

Mrs. Carlson said the town had entered into a franchise agreement with Time Warner for the Ashville area. She said Time Warner has since purchased the Adelphia franchise and would like to enter into a franchise agreement with the town. She said a public hearing will need to be held next month before the board meeting and also suggested that on page 11 of the agreement the % of the franchise fee be increased from 3 to 5% to cover Town/County taxes (Time Warner currently is able to charge back the tax to the town).

MOTION #100 OF 2008
ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS A PUBLIC HEARING ON THE TIME WARNER FRANCHISE AGREEMENT WILL BE HELD ON 8/11/08 AT 7:45 BEFORE THE REGULARLY SCHEDULED BOARD MEETING. **THE MOTION WAS CARRIED UNANIMOULSY.**

- **RICHARD THAYER – REQUEST TO PURCHASE ABANDONED ROADWAY**

Mrs. Carlson said Mr. Thayer has asked to purchase a portion of an abandoned roadway.

Mr. Thayer said he has lived in his home in Cheneys' Pt. for 37 years and is replacing his home due to a fire. He produced a survey and reviewed it with the board. He said when the survey was done he discovered that the old trolley line went through there. He said after investigation, he discovered that the only section of property that has not been doled out to others is the 90+ feet long x 12 ½' wide piece that runs past his property. Mr. Thayer said he wants to build an additional garage there and if he can't reach an agreement with the town he will need to see if a variance can be sought from the Zoning Board.

Mrs. Carlson asked if there is any reason the garage can't be moved back. She said she could not see the ZBA giving a variance to build in a road ROW.

Mr. Thayer asked why it is the only 75' ROW in the town when everything else is 49 ½'. He said he had checked with Mr. Holcomb and was advised that if no one else owns it, the town owns it.

Mrs. Carlson said Mr. Stapleton had provided her with a checklist.

Mr. Stapleton said the checklist was created with the assumption that the town owned a certain piece of land and Mr. Thayer is questioning that. He said that Mr. Thayer should hire a title company to search the county records for information on that land. He further stated that if Mr. Thayer thinks the ROW is not 75' and some on the land was abandoned back to the original owners by the Trolley Co. he would need to establish a legal basis for claim through the title search process. He said until the matter of the title is resolved it is assumed, as Mr. Holcomb said, that the town owns the property.

Mrs. Carlson said she could not locate anything in the town records that give the subdivision, but feels the reason she could not find it was because it happened in the 1800's and N.H. was established in 1919.

Mr. Stapleton said until the facts are established he can make no recommendation to the town regarding the land in question. He said the checklist would only come into play when the threshold question is answered.

Mr. Thayer asked how the people who own pieces of it currently gained use or title.

Mr. Stapleton said he couldn't answer that question.

Mr. Thomas said the trolley line was abandoned and dismantled in 1926 and he said the information should be recorded somewhere at the county as to who then owned the land.

Mr. Stapleton said the town should let Mr. Thayer know if they have any interest in abandoning any kind of roadway before he goes to the expense of having the abstract work done.

Mr. Thayer said maybe he should build on it as others have done.

Mr. Stapleton said people have built on paper streets shown on the subdivision map, but not on any public roadway or ROW shown on a map.

There was further general discussion during which Mr. Ryan said the town does plow and maintain the ROW.

Mr. Stapleton advised Mr. Thayer to have the abstract company do their work and then have his attorney contact him.

- **MARTHA ROGUS – ASKED TO DO TRASH PICKUP AT CHENEY PT. AND REQUESTED A SIGN BE POSTED FROM THE NATURE AND TRAVEL WRITING CLUB**

Mrs. Carlson said she had given permission for Ms. Rogus to do this as long as the sign is not too large. She said she would get more information.

Mr. Lawson said as long as there are no view issues and placement is designed with safety in mind.

- **GARDEN IMAGE – PLACEMENT OF A BENCH AT LIGHTHOUSE PARK AND POST SIGN**

Mrs. Carlson said she had given authorization for this.

- **AUTHORIZE SUPERVISOR TO SIGN SURETY BOND**

Doreen Sixby of M&T Bank has requested the town sign a surety bond in place of fund balance collateral.

Mr. Stapleton reviewed the paperwork, gave the board a brief summary of the contents of the agreement and indicated no objections to the signing of the surety bond as long as the board members were in agreement.

MOTION # 101 OF 2008
ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS THE SUPERVISOR WAS GIVEN AUTHORIZATION TO SIGN A SURETY BOND WITH M&T BANK **AND THE MOTION WAS CARRIED UNANIMOUSLY.**

- **COMMITTEE FOR VETERANS MONUMENTS**

Discussed previously in Correspondence item # 18.

- **WORK AT TRAINING CENTER PARKING LOT**

Mr. Ryan said the AFD wants to seal their parking lot at the training center and he would like to help them with 2-3 loads of stone (approx. $120).

Mr. Lloyd said the Highway has helped before at Station #2.

MOTION #102 OF 2008
MR. STOW MOTIONED THAT THE HIGHWAY DEPT. BE AUTHORIZED TO PROVIDE STONE AND SOME PATCH WORK FOR THE ASHVILLE FIRE DEPT. TRAINING CENTER

PARKING LOT. MR. WHITNEY SECONDED **AND THE MOTION WAS CARRIED UNANIMOUSLY.**

- **TOWN PARKS**

Mrs. Carlson said there have been issues with the town parks and persons using them implying that situations at the parks could lead to possible liability law suits. She asked if there were some type of waiver that the town could have users sign and perhaps a rental fee to cover the cost of lawn service, dumpster, etc.

Mrs. Thomas explained that someone who had used Butts Park had called and reported that someone had left deep tracks on the ball field and this could cause the town liability problems if someone were hurt.

Mrs. Carlson asked Mr. Stapleton how much validity a waiver of immunity has.

Mr. Stapleton said waivers typically have to be specific for the type of activity people will be engaging in and they must voluntarily assume the risk of any and all injuries they might incur (including death, dismemberment, etc.) and they will hold the town harmless. He said a document could be created that would state the park is being used for a family picnic and all generally accepted recreational picnic activities. He said then you may have an argument in court that the release received will be upheld. He stated further that if an unsafe condition exists that the town is not made aware of (i.e. written or verbal notice) there should not be a tort liability.

Mr. Whitney said he did not feel a charge would be a good idea.

Mrs. Carlson said she feels a general waiver would be a good idea.

Mr. Stow asked if the town did charge a fee for park use would that increase the town's liability status.

Mr. Stapleton said if the fee were couched in terms of a deposit against potential damage or cleanup, it should not affect the town's liability. He said it could be included in the waiver that any and all damage would be billed to the user and the justice could enforce that if necessary.

Mrs. Thomas said she would check with other towns to see what their park policies are.

- **REPORTS:**

JAY GOULD, LEGISLATOR

Mr. Gould said the July legislative meeting would be held at the Sheraton in Dunkirk. He said the following has occurred in the legislature:

- Grant approved for $157,225 for a 1,000' extension of the runway at Dunkirk Airport (local share $4,000)
- Grant approved for $6,000 for purchase of bullet proof vests for the Dept. of Probation
- Rental of record storage space from Town of Chautauqua for Public Health records (182 sq. ft. at $455/yr.)
- Mr. Gould said even though the gas tax has been referred to the Attorney General's office for investigation, he feels that office will not investigate a private business and no results will be received. He said the repeal for the gas tax cap was voted down by about 2 votes. He said he voted to repeal because the taxpayers have not realized any savings on it. He said it could come up for vote again as early as next month.

RANDY HOLCOMB, ASSESSOR

The final assessment roll was completed on 7/1/08 and has been filed for 2008 with NYS ORPS. The 2008 tentative equalization rate is 89.50% and the final total assessment is $239,275,534 as compared to $237,637,710 for 2007. The final taxable assessment is $224,649,636 as compared to $223,182,932 in 2007.

GARY RYAN, HIGHWAY SUPERINTENDENT

Mr. Ryan said the highway has been working on the following:

- black top
- shoulders

Mrs. Carlson asked what the distance of black top installed was.

Mr. Ryan said he could not measure it because the device on his truck was broken. He said they had done all of Fox Rd. and almost all of Baker Rd. He said they had helped Chautauqua do some blacktop. There was general discussion of the price of oil and asphalt.

HOWARD PEACOCK / EVERETT BENSINK, JUSTICES *(Written report included in Minute Book)*

Mr. Peacock said $28,360 was remitted to the town for the cases reported to the NYS Comptroller in June, 2008.

BRAD LAWSON, ZONING CEO *(Written report included in Minute Book)*

Mr. Lawson said after he had completed his report he had received 3 new building requests. He said he will be out of town from 7/16-26/08, and Don Kayner will fill in for him.

Mr. Thomas asked if anything could be done about the unsightly conditions at Caster Well Drilling.

Mr. Lawson said some of the equipment is for their business and he does not believe that it would be covered under the towns Junk Law.

Mrs. Carlson said that Rebecca Anderson of the DEC has forbidden the construction of a fence without DEC approval.

Mr. Lawson said they have asked to build a berm in the front and put a fence on that. He said when the creek was diverted the DEC never redid the flood plain maps. He said we are still waiting for the changes indicated in the report to correct the flood plain so that things can move forward.

DAVE LLOYD, HAZARD MITIGATION

Mr. Lloyd said there is no news on the flood mitigation project in Ashville at this time. He said the survey on Longview is complete and there was a meeting with Rex, Sally, Gary and himself to discuss plans for the drainage project. He said Rex would finalize those plans and have them available for a meeting with the homeowners. He said Kim Sherwood is heading up the Rapid Watershed Assessment process and has requested information from the town on our hazard mitigation plan. He said Mr. Sherwood wants to review the plans and Mr. Lloyd is confident there will be progress with him in charge. He said Mr. Sherwood is geared toward quick and inexpensive plans for setting priorities and taking action. Mr. Lloyd provided an Overview document of the Rapid Watershed Assessment Process and how it works.

NANCY THOMAS, TOWN CLERK *(Written report included in Minute Book)*

Mrs. Thomas said she had nothing further to add to her written report.

MOTION #103 OF 2008

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. WHITNEY THE TOWN CLERKS REPORT WAS ACCEPTED **UNANIMOUSLY.**

MOTION #104 OF 2008

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. WHITNEY THE SUPERVISORS REPORT WAS ACCEPTED **UNANIMOUSLY.**

MOTION #105 OF 2008
ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS THE GENEREAL FUND BILLS WERE **UNANIMOUSLY** APPROVED FOR FUNDING.

MOTION #106 OF 2008
ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS THE HIGHWAY FUND BILLS WERE **UNANIMOUSLY** APPROVED FOR FUNDING.

MOTION #107 OF 2008
ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. THOMAS THE MEETING WAS ADJOURNED AT 9:25 PM.

Nancy M. Thomas
Town Clerk