

**TOWN OF NORTH HARMONY
PUBLIC HEARING
TIME WARNER FRANCHISE AGREEMENT
MONDAY, 8/11/08 7:45 PM**

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

OTHERS PRESENT: Jay Gould, Legislator; Gary Ryan, Highway Sup't.; Dave Lloyd, Hazard Mitigation; Brad Lawson, Zoning CEO; Randy Holcomb, Assessor; Dick Sena, Planning Board; Penny Best, Deputy Town Clerk; Robin Miller, Bookkeeper; Dave Stapleton, Attorney; Howard Peacock, Justice; Barb Hoyt, Nancy Thomas, Town Clerk

Mrs. Carlson opened the Public Hearing by stating that CAP Exchange I, LLC (Time Warner Cable) has asked the town to renew their franchise agreement for an additional ten year period (8/11/08 – 8/11/18). She stated that this agreement includes a change in the franchise fee from 3 to 5% in order to cover the Town/County tax which the town is obligated to pay. She opened the floor for questions.

Mr. Stapleton asked if there were any plans for expansion of coverage.

Mrs. Carlson said she was not aware of any at this time.

Mr. Lawson said that many areas in the town close to Rt. 394 have become more populated (Butts, Ramsey, and Bly Hill Roads).

Mrs. Carlson agreed there are not as many vacant spaces now as there was when cable was first installed. She said she would ask about expansion possibilities.

Mrs. Carlson closed the hearing at 7:50 PM.

**TOWN OF NORTH HARMONY
BOARD MEETING
MONDAY, 8/11/08 8:00 PM**

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- **MINUTES**

MOTION #108 OF 2008

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MRS. WARD THE MINUTES OF THE TOWN CLERK WERE APPROVED UNANIMOUSLY WITH A TYPOGRAPHICAL ERROR CORRECTION TO MR. GOULD'S REPORT.

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• **PUBLIC COMMENT:**

DREDGING OF GOOSE CREEK – DICK SENA

Mr. Sena said he understands that Goose Creek will be dredged and the silt will be placed at the park. He asked where in the park it will be placed and how much it will be.

Mrs. Carlson said it will be approximately 72-73 ten wheeler truck loads or 800 yards and will be used to fill in the brush dump.

Mr. Sena asked if more trees will be cut at the brush dump.

Mrs. Carlson said this is currently an application and has not been approved yet. She said there will be additional work before it is a done deal. She said this is Dave Wilson's project.

Mr. Gould said he and Mr. Wilson had been to the brush dump and Mr. Wilson would like to put the silt above the pavilion in the dump and construct a silt fence to keep it from running to the woods. He said that the silt should be pretty dry by the time it arrives at the dump.

Mr. Sena expressed concern about the trees that have been killed by the debris and people cutting the trees for firewood. He said perhaps it would have been beneficial to the town to have a logging company cut those trees for revenue to the town. He said there are some large ash trees located there.

Mr. Gould said the ash trees are dying.

Mrs. Carlson asked if it was worthwhile having them cut.

Mr. Gould said when he had looked at the site with Mr. Wilson he didn't think that many trees would be lost if the loads were spread out.

Mr. Ryan said he would have someone look at the site for possible tree harvesting. *At a later time in the meeting Mr. Ryan asked the Supervisor how much of the area should be reviewed for harvesting. Mrs. Carlson indicated that an estimate of the entire acreage would be beneficial (20+ acres). She said it had been looked at previously and at that time the estimated timber value was not very high.*

• **CORRESPONDENCE:**

Mrs. Carlson said the following correspondence has been received and is available for review:

1. **RURAL AGING SUMMIT – 9/20-21/08**
2. **CHARLES SCHUMER** –
 - Historical and Cultural Organizations Grant Program
 - 2009 Weed & Seed Communities Competitive Grant
 - We the People Program – Picturing America Grant
3. **JERROLD NALER, U.S. CONGRESSMAN – SAFETEA – LU – Road repair for NYS**
4. **NEW YORK STATE**
 - \$1,000 Youth Rec Funding
 - Unified Court System Annual Review of Books
 - DEC – Notice of complete application Goose Creek Project for silt removal has been sent
 - ORPS – STAR Application Aid \$643.08
 - Notice of final equalization rate of 89.5%

Mrs. Carlson noted that this year the Justice books need to be audited prior to the January, 2009 meeting so that a motion can be recorded in the minutes in order to comply with the Unified Court System regulations.

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5. NYS PUBLIC SERVICE – Verizon, NY

6. CHAUTAUQUA CO. FINANCE – Sales Tax \$129,277.23 (up \$4,073.25 from last year)

Mrs. Carlson said Mr. Schultz had done a good job of projecting receipts for this year and hopes he will provide this information again this year as it is very helpful in the budget process.

7. CHAUT. CO. BOARD OF ELECTIONS -
- Visit of U.S. Dept. of Justice
- Changes to make building handicap compliant

Mrs. Carlson said rails have been installed on the ramp; A van accessible spot has been outlined in the parking lot; and the sign height has been adjusted so that it will be visible above a vehicle. She said we need one additional Van Access handicap parking sign for the end spot. She said she would notify them of compliance when the sign is in place.

8. LONGVIEW AVE. LETTERS - **Brenda Eastman (copy included in Minute Book)**
Phil Strand (copy included in Minute Book)

Mrs. Carlson read into the record the above referenced letters.

Mr. Lloyd said he had spoken to Rex Tolman this morning with some ideas and they feel it is feasible to keep the work only on the Handkammer's and the town's property. He said they may need an easement from Ms. Eastman to remove the cement but it would be a one time only project.

Mr. Ryan asked if he was talking about moving the road over.

Mr. Lloyd said no, just the drainage part.

There was discussion of extending the blacktop in order to create an area to push snow and lessen the amount of damage to the grass, clean up, etc. in the spring.

Mrs. Carlson said residents with deeded rights have the right to use the ROW but they do not own it.

9. BOOTEY BAY HOTEL LETTERS
- Robert Hagstrom - support
- Elizabeth Bergen, Atty. – FOIL request & Response
- Robert Ciesielski, Sierra Club – opposed

Mrs. Thomas said there is a great deal of information to be organized and copied in relation to Ms. Bergen's FOIL request. She said she has responded to Ms. Bergen's request with a date the information will be made available and with an estimate of the cost involved for copies and postage which are allowable charges under FOIL. She requested that the board allow these fees to be used to cover the costs for extra hours needed for the Deputy Town Clerk to collate and copy the information. Mrs. Thomas stated that Mrs. Best has already spent more than 12 hours working on the project.

Mrs. Best said that the information would also need to be indexed so that any questions regarding the information could be easily accessed.

There was general discussion of the fees associated with FOIL requests and whether or not reimbursement for Mrs. Best's time could be billed to the applicant.

Mrs. Thomas said that at this time you can charge \$.25 per copy and postage/handling but not for man hours. She said that Bob Freeman of NYS said there is currently legislation in process that might allow man hour reimbursement for a contractor/employee for these types of extensive FOIL requests. She said currently well over 1,000 pages of information have been received on the Bootey Bay Project.

Mr. Sena said Mr. McGraw has made the statement to a number of people that he plans to be at the September Planning Board meeting to discuss the hotel project.

Mrs. Carlson indicated this will not happen unless all information in writing is received 10 days in advance of that meeting. She said until the town hears from Mr. McGraw's attorney, there will be no further discussion with Mr. McGraw.

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- **OLD BUSINESS:**
- **TIME WARNER FRANCHISE AGREEMENT RENEWAL**

STATE OF NEW YORK

Town of North Harmony

County of Chautauqua

In the Matter of the Renewal of the Cable Television Franchise Held by
CAP EXCHANGE I, LLC, in the town of North Harmony, Chautauqua County, New York

RESOLUTION

An application has been duly made to the Board of the town of North Harmony, County of Chautauqua, New York, by CAP Exchange I, LLC ("**Time Warner Cable**"), a partnership organized under the laws of the State of New York doing business at 2875 Union Road, Suite 359, Cheektowaga, NY 14227, and holder of a cable television franchise in the town of North Harmony for the approval of an agreement to renew Time Warner Cable's television franchise for an additional ten (10) years commencing August 11, 2008. The Franchise Renewal Agreement would bring the franchise into conformity with certain provisions of the Federal Cable Communications Policy Act of 1984, as amended and certain court rulings.

A public hearing was held in the town of North Harmony on August 11, 2008 at 7:45 P.M. and notice of the hearing was published in the Jamestown Post Journal on August 5, 2008.

NOW, THEREFORE, the Board of the town of North Harmony finds that:

1. Time Warner Cable has substantially complied with the material terms and conditions of its existing franchise and with applicable law; and
2. The quality of the Time Warner Cable service, including signal quality, response to customer complaints and billing practices has been in light of community needs; and
3. Time Warner Cable has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal attached; and
4. Time Warner Cable can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

BE IT FURTHER RESOLVED that the Board of the town of North Harmony hereby renews the cable television franchise of Time Warner Cable in the town of North Harmony for ten (10) years commencing August 11, 2008 and expiring August 11, 2018.

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BE IT FURTHER RESOLVED that the Board of the town of North Harmony hereby confirms that this Franchise Renewal Agreement replaces the original franchise last amended on April 10, 2006.

The foregoing having received a yea/nay vote was thereby declared adopted.

Dated: August 11, 2008

Town of North Harmony Clerk

MOTION #109 OF 2008

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. WHITNEY THE ABOVE RESOLUTION EXTENDING THE TIME WARNER CONTRACT FOR A PERIOD OF 10 YEARS (8/11/08-8/11/18) WAS ADOPTED UNANIMOUSLY.

- **LIGHTHOUSE PARK – Saturday 8/16/08 10:00 AM – Rededication of Lighthouse and Ribbon Cutting Ceremony for the Park**

Mrs. Carlson encouraged all residents to attend.

- **YOUTH REC REPORT**

Mrs. Carlson said the report has been received. The program has included a visit to the Lucy Desi Museum; a ride on the Summer Wind; Olympic programs; Election education and many other activities.

- **ASHVILLE DAY**

Mrs. Thomas said that Ashville Day had been successful and a great deal of fun for all who attended.

- **TOWN PICNIC - SATURDAY 8/16/08 4-7:00 PM AT BUTTS PARK**

Mrs. Thomas said she had just found out that the AFD was holding their picnic on the same day as the Town picnic. She apologized for the oversight and said next year she would check to make sure there were no scheduling conflicts between the two events.

Mrs. Hoyt said she had not known either.

Mrs. Thomas said there will be music, games for the children, a pie baking contest and lots of good food. She encouraged everyone to come and enjoy the event.

- **LONGVIEW AVE. (discussed previously under Correspondence item 8.)**

- **TOWN PARK WAIVER**

Mrs. Thomas said she had contacted the Towns of Ellery and Busti to see if they asked those using the parks to sign any type of waiver releasing the town from liability. She said that Busti does charge a use fee of \$25, but neither town requires a waiver. She said the reasoning is that unless the waiver is extremely specific it would probably not hold up in court as Mr. Stapleton had previously indicated.

Mr. Stapleton said the only thing that could be done was to identify hazardous areas in the park and correct the situation.

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- **GOVERNMENT EFFICIENCY IN NY – May/June issue pg. 5**

Mrs. Carlson urged everyone to read the article “Bigger is not always Better”.

- **WIND ENERGY**

Mrs. Carlson said she attended the conference in Arcade and she feels the Planning Board should work on including the major commercial wind mills in the ordinance. She said we should also pursue more information on the smaller types of wind mills.

Mr. Lawson said he thought Chautauqua may have outlined some info on the smaller individual types but he feels it will be up to each town’s preference as to height, district locations, etc.

There was general discussion of wind mill use and the different types of units available.

- **NEW BUSINESS:**

- **REVALUATION**

Mr. Holcomb said they have started to receive replies to the revaluation information forms mailed to property owners. He said this is an opportunity to get information corrected and cleaned up so that files are accurate for the revaluation process.

- **APPOINTMENT OF RALPH WHITNEY AS DEPUTY SUPERVISOR**

MOTION #110 OF 2008

ON A MOTION MADE BY MR. STOW AND SECONDED BY MRS. WARD, RALPH WHITNEY WAS APPOINTED TO THE POSITION OF DEPUTY SUPERVISOR, UNANIMOUSLY.

- **REPORTS:**

JAY GOULD, LEGISLATOR

Mr. Gould said the following has occurred in the Legislature:

- Vote to deed the Village Park to the Village of Mayville (located at four corners)
- Vote to use \$10,000 bed tax funds along with capital funds of \$40,000 for local share of grant funding for the ferry landings at Stow and Bemus Pt.
- Vote to fund court renovations in the amount of \$340,325. These funds will be funded by the court system.
- Vote to fund \$22,318 for the Bus Garage Lease/Purchase at the Chaut. Co. Offices for space for the Hazmat truck.
- Grant for \$87,000 for bomb detection equipment received by the Sheriff’s Dept.
- New hire at Real Property Tax office to help with tax auction at \$35,000/salary and \$10,000/benefits.
- Vote to lend \$8,000 to Sinclairville to clean up trailer park which will then be sold at tax auction to pay off the \$8,000.
- Salary review report was received with recommendations that the following salaries be increased in 2010: County Executive inc. \$95,000; County Clerk inc. \$65,000; Sheriff inc. \$87,500 in 2011; Legislature inc. base salary to \$10,000 in next term and offer only single coverage for health insurance at a 15% contribution. The committee recommended that the number of legislature seats be reduced to 17 or less (currently 25) with a base salary of \$15,000 each.

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Mr. Gould feels that the loss of legislative seats will adversely affect the rural populations.

GARY RYAN, HIGHWAY SUPERINTENDENT

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

- installation of sluice pipes
- ditching
- installing guard rails
- work for the county
- cutting trees on Fardink Rd.

HOWARD PEACOCK, JUSTICE (copy of report included in Minute Book)

Mr. Peacock said he has begun work on the grant for the court which is due by 8/28/08. He said the Court Clerk will help him identify needs. He said he had been told to send in the grant request even though they may not know exactly what the security requirements will be.

BRAD LAWSON, ZONING CEO (copy of report included in Minute Book)

Mr. Lawson said two new homes have been started and he thinks there are two new ones about to begin. He said he has been doing a lot of inspections and feels even though the numbers are down there has still been a great deal of growth in the area this year.

DAVE LLOYD, HAZARD MITIGATION

Mr. Lloyd said Mr. Tolman has no new information on the Ashville projects. He said the guard rail is up at Victoria Rd. and as soon as the debris catchers are installed it will be complete. He said when it is complete they would like to place a sign indicating it is a CLMC demonstration project. He said that Dave Wilson plans to do elevation and land surveys at Cheney Creek when he returns from vacation. Mr. Lloyd said a water flow and flood map study need to be done there. He said the County seems to be very interested in the project. He said the Rapid Watershed Assessment could be useful tool in the process. He said he had spoken to Mr. Ryan about doing some check or step dams on some of the roads (Stoneledge, Alexander, Bly Hill, Cheney and Butts Rd.) to slow water and prevent runoff erosion. He said maybe they could start in the fall. Mr. Lloyd mentioned the 2005 proposed stream project at BOCES and said he had spoken to Jeff Angeletti as well as the county in hopes of getting it revisited. He said Mr. Tolman will walk the stream with him and hopefully they can get the BOCES Conservation class involved in the projects and future maintenance.

Mrs. Carlson asked Mr. Ryan if any arrangements have been made for the removal of the tree in Cheney Creek.

Mr. Ryan said he would take care of it.

NANCY THOMAS, TOWN CLERK (Copy of report included in Minute Book)

Mrs. Thomas said she had issued an amended bingo license for the AFD. She said there seemed to some confusion at the department about the fact that an amended license can be easily issued for unused occasions and said she had expressed her willingness to do so on several occasions. She said she has also issued a new bingo license to the AFD for the remainder of the year. Mrs. Thomas said she has spoken to Mark Raynor, Business Manager at Panama School about the possibility of the Clerks office taking over the School Tax collection for the district. She said she had mentioned a cost for this service of \$4,000 (excluding cost of roll/bill preparation, postage, etc.) as a basic fee. She said Panama was having a board meeting tonight and she expected to hear from Mr. Raynor after that. She requested the board's permission to accept if the school district offers the position of school tax collector.

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Mrs. Carlson asked if Mrs. Best would be taking the job or would Mrs. Thomas be taking the job.

Mrs. Thomas said the clerk's office would be taking the job although Mrs. Best would be doing most of the collecting.

Mrs. Carlson asked if Mrs. Thomas would have to pay the income tax on the service cost.

Mrs. Thomas said it would be an agreement between the town and the school and the funds would go into the Town Clerk's budget.

Mrs. Carlson said no it doesn't, they pay you separately.

Mr. Holcomb said yes they pay the town separately and the Town of Chautauqua performs the same job for CLCS.

Mrs. Carlson asked if anyone had objections.

MOTION #111 OF 2008

MRS. WARD MOTIONED THAT THE TOWN CLERK BE AUTHORIZED TO ENTER INTO AN AGREEMENT WITH THE PANAMA SCHOOL DISTRICT TO COLLECT SCHOOL TAXES SHOULD THE OFFER BE EXTENDED. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION #112 OF 2008

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MRS. WARD THE TOWN CLERK'S REPORT WAS ACCEPTED UNANIMOUSLY.

MOTION #113 OF 2008

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

MOTION #114 OF 2008

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MRS. WARD THE GENEREAL FUND BILLS WERE UNANIMOUSLY APPROVED FOR FUNDING.

MOTION #115 OF 2008

ON A MOTION MADE BY MR. STOW AND SECONDED BY MRS. WARD THE HIGHWAY FUND BILLS WERE UNANIMOUSLY APPROVED FOR FUNDING.

MOTION #116 OF 2008

ON A MOTION MADE BY MR. STOW AND SECONDED BY MRS. WARD THE MEETING WAS ADJOURNED AT 9:35 PM.

*Nancy Thomas
Town Clerk*