

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
12/14/09 8:00 PM**

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| SALLY P. CARLSON, SUPERVISOR | PRESENT |
| RALPH WHITNEY, COUNCILMAN | PRESENT |
| ART THOMAS, COUNCILMAN | PRESENT |
| FRANK STOW, COUNCILMAN | PRESENT |
| DICK SENA, COUNCILMAN | PRESENT |

OTHERS PRESENT: Jay Gould, Legislator; Dave Stapleton, Attorney; Brad Lawson, Zoning C.E.O.; Pat O'Brien, Bill Stratton, Highway M.E.O.'s; Robin Miller, Bookkeeper; Howard Peacock, Justice; Helen & Clayton Emick; Nancy Thomas, Town Clerk

- PLEDGE
- MINUTES

MOTION #168 OF 2009

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. THOMAS, THE MINUTES OF THE 11/9/09, PUBLIC HEARING AND TOWN BOARD MEETING WERE ACCEPTED UNANIMOUSLY.

- ANNOUNCEMENTS:
- TOWN OF BUSTI SPONSORING A TELECONFERENCE ON SOIL EROSION – 12/15/09, 12:00-2:00pm at the Ag Center
- PUBLIC COMMENT:
- CORRESPONDENCE:

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

1. WRIGHT, WRIGHT & HAMPTON – NOWICKI VARIANCE

Mrs. Carlson said the town has received a letter regarding the Nowicki property located in Neits Crest. She asked Mr. Stapleton if the town needs to do anything in regard to the letter.

Mr. Stapleton said that he; Mr. Lawson and Mrs. Thomas have had conversations about the issue. He said he has also spoken to the Nowicki's attorney and they will be appearing before the Zoning Board of Appeals on 12/16/09, requesting a variance.

Mr. Lawson said the property is only 26,176 sq. ft. and with the new county regulations of 40,000 sq. ft. they will have to apply for a variance from the town for lot size. He said the Nowicki's have received a variance for lot size from the County Health Dept. because they are installing an engineered sewer system designed by Rex Tolman. He said even though the town has not yet officially adopted the 40,000 sq. ft. lot size they are bound by the state and county regulations and the case should appear before the Zoning Board of Appeals so they can grant or deny the variance request.

2. TIME WARNER

Channel changes.

3. CONGRESSMAN BRIAN HIGGINS – Affordable Health Care for America Act

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Mrs. Carlson said she had written to Congressman Higgins about her concern about the cost and he had responded in a non-specific manner.

4. DAVE LLOYD – Letter of Resignation from ZBA effective 10/23/09

MOTION #169 OF 2009

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. SENA THE RESIGNATION OF DAVE LLOYD FROM THE ZONING BOARD OF APPEALS EFFECTIVE 10/23/09, WAS ACCEPTED WITH REGRET. THE MOTION WAS CARRIED UNANIMOUSLY.

5. BARRY SCHWARTZ – Collateral Source Bill

Letter regarding ending the unfair double recovery of future earnings that are currently permitted only in favor of public employees against their public employers in person injury and other tort actions.

Mrs. Carlson said she does not believe this applies to the town.

6. LAW DIGEST – PUBLIC OFFICERS LAW

Chapter 29 now requires that a public body that has the ability to do so, post notice of time and place of its meetings on its internet website. It also requires each agency requiring a request for a personnel record by electronic mail to furnish the record by electronic mail if they have the means to do so.

Mrs. Thomas expressed concern about using the internet with regard to personnel information for privacy reasons.

Mr. Stapleton said he would obtain a copy of the legislation behind the law for the town clerk.

7. JAECKLE, FLEISCHMAN & MUGEL – Brownfield Eligibility Program

8. SENATOR YOUNG – Bill on Farmer's Support

Recommendations to the governor on using federal stimulus funds to provide immediate assistance to dairy farmers.

Mrs. Carlson said she had written to Senator Young on this issue and the senator has submitted legislation.

9. ISO BUILDING CODE ENFORCEMENT AGENCY – North Harmony rating 6

Mr. Lawson said that rating is not good. He said the reason it is so low is because the NYS Code updates are so far behind (currently using 2003 codes).

10. NYS COMPTROLLER – Information on NYS Retirement Program and their new Tier

11. MICHAEL CARUSO (Bemus)– Letter of complaint about the AFD and the way they operate their facility in Ashville

Mrs. Carlson said she has forwarded the letter to the Commissioners since the town is not responsible for the department.

12. OLMSTED NURSERY AND MULCH – Information on disposing waste wood

- **OLD BUSINESS:**

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- **REGNER PROPERTY**

Mrs. Carlson said we still have not made any decision on how to deal with it. She said perhaps the town should put it on the market as is and let the buyer clean it up. She said the town should plan to place notice for bids in the spring (advertise in the newsletter, website and contact parties who have already expressed interest).

Mr. Sena said if Mr. Ryan is too busy and can't do the clean up, the town should pursue the cleanup to raise the marketability of the property.

Mrs. Carlson said she had contacted Roger Vaillancourt for a quote on the clean up, but he has not responded at this time. She said perhaps we should advertise for bids for the clean up. After discussion it was decided that the action would have to wait until spring and an outline of the clean up would have to be determined prior to the advertisement.

MOTION #170 OF 2009

MR. SENA MOTIONED THAT THE TOWN ADVERTISE FOR BIDS FOR THE CLEAN UP OF THE REGNER PROPERTY ON STOW FERRY ROAD AND THAT HE BE LISTED AS CONTACT FOR THOSE BIDS. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **ELECTIONS – Illegal to Electioneer on Town Property**

Mrs. Carlson said prior to the November, 2009 election she had received a call concerning electioneering that occurred at the highway building. She said she contacted Brian Abrams and was advised it was illegal to electioneer on town property. She said she wanted everyone to be aware of that and asked if a sign should be posted to that effect.

Mr. Stow asked about signs on Fire Department property.

Mrs. Carlson said signs can be placed there, but only with the approval of the commissioners. It was discussed that for many years candidates have passed out literature at the transfer station.

Mrs. Thomas said no one had realized prior to this incident that it was illegal.

- **CORRECTED MORTGAGE TAX \$24,640.77**

Mrs. Carlson said Mr. Gould has obtained a corrected figure for the Mortgage Tax which has been listed at last month's meeting as \$21,378.08.

- **PROPERTY IN ASHVILLE – Pipe per quote \$60/ft., plus 3 bands (total \$3,870)**

Mrs. Carlson asked Mr. Gould if he had any new information on the two properties in Ashville that the town is interested in.

Mr. Gould said he had left a message with the attorney at the county who deals with property and hopes to hear from him soon.

- **SEWER FOR B.O.C.E.S.**

Mr. Stapleton said he had spoken to Mr. Alienello, Engineer for B.O.C.E.S., who had been requested a month ago to confer with Rex Tolman about the development of a map, plan and report, so that the town and B.O.C.E.S. could see what is involved with the physical aspects and cost of the project. He said Mr. Alienello had responded last week that he has spoken to Mr. Tolman and they did not think the project will be very complicated or time consuming. He said he got the impression that we should probably have some type of map, plan and report within 2 – 3 weeks. He said when it is received the agreement between B.O.C.E.S. and the town can be drafted.

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- **GOOSE CREEK CORPORATION**

Mrs. Carlson said Mr. Mangione of the Goose Creek Corp. had appeared at the Planning Board meeting earlier this month with some additional information and maps.

Mr. Lawson said he has given to Mr. Stapleton for review the information Mr. Mangione provided. He said when Mr. Stapleton has reviewed it they will get it to the Planning Board.

- **MALCOMB BRUCE – Ashville Bay**

Mrs. Carlson said Mr. Bruce had asked the town to do some work concerning roads in Ashville Bay. She said she has sent him a letter asking for payment in the amount of \$460.00 to cover the town's expenditures on the work and at this time she has not received acknowledgement of the communication nor payment for the work. She said she would send another letter.

NEW BUSINESS:

- **YEAR END MEETING 12/28 OR 29/2009**

MOTION #171 OF 2009

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE TOWN OF NORTH HARMONY WILL HOLD THE YEAR END MEETING ON MONDAY, 12/28/09, AT 12:00 PM. THE MOTION WAS CARRIED UNANIMOUSLY.

- **SWEARING IN CEREMONY SUNDAY 1/3/10, 1:00 PM AT SR. CITIZENS BLDG.**

Mrs. Carlson said she would like to do the swearing in ceremony at the Sr. Citizen's building this year. She suggested 1/3/09 at 1:00 PM. She said everyone should bring a dish to pass and the community is invited to attend.

MOTION #172 OF 2009

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. STOW, THE TOWN OF NORTH HARMONY SWEARING IN CEREMONY OF ELECTED AND APPOINTED OFFICIALS WILL TAKE PLACE ON SUNDAY, 1/3/09, 1:00 PM AT THE SR. CITIZEN BUILDING. THE MOTION WAS CARRIED UNANIMOUSLY.

- **RAISE FOR PAT O'BRIEN, M.E.O. \$1/HR. EFFECTIVE 1/1/10**

MOTION #173 OF 2009

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. WHITNEY A RAISE OF \$1/HR. (\$19.00/HR) EFFECTIVE 1/1/10, WAS AWARDED TO PAT O'BRIEN AT THE RECOMMENDATION OF THE HIGHWAY SUPERINTENDENT. THE MOTION WAS CARRIED UNANIMOUSLY.

- **INDEPENDENT HEALTH – 2010 INSURANCE RATES – Employee Meeting with Independent Health scheduled for Tuesday, 12/22/09, 12:00 PM at the Town Bldg.**

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|------------|----------|--------------|
| New Rates: | Single | - up \$4.44 |
| | 2 Person | - up \$48.05 |
| | Family | - up \$16.58 |

- **GARY RYAN, HWY SUPT. – REQUESTING AUTHORIZATION TO ADVERTISE FOR BIDS FOR A NEW TRACTOR**

Mrs. Carlson said Mr. Ryan would like authorization to advertise for bids for a new tractor with cab for the highway department to come out of next year's budget.

MOTION #174 OF 2009

MR. THOMAS MOTIONED TO AUTHORIZE THE HIGHWAY SUPERINTENDENT TO ADVERTISE FOR BIDS FOR A NEW TRACTOR WITH CAB. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Discussion:

Mr. Sena asked if the town is mandated by the bid or could they fall back on state contract prices if bids are not acceptable.

Mr. Stratton said yes, but many times you can get a better bid price locally than on state contract.

Mrs. Carlson said Mr. Ryan would like to keep the old tractor to use on shoulders and use the new one for mowing. He said the trade in value on the old tractor would not exceed \$6,000.00.

Mr. Stratton said the current tractor is a 65 H.P. and he recommends an 85-95 H.P. for the new unit. He said the tractor they are looking at has 93 H.P. or 75 P.T.O.

- **DICK SENA – NYS COMPTROLLER - NEWLY ELECTED OFFICIALS CONFERENCE**

Mr. Sena said he had attended the teleconference on 12/8/09 at JCC. He said the following had been stressed during the conference:

- Mileage rate will be \$.50 in 2010
- New regulations for the Retirement System
- Law requiring that the Financial Budget of the Town be posted on the website
- Town Code of Ethics needs review and update
- FOIL Law should be posted

- **REPORTS:**

JAY GOULD, LEGISLATOR

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

- Accepted grants for record keeping and government management funds; one for \$25,000 and one for \$45,000.
- Mortgage Tax for North Harmony \$24,640.77
- Bridge over Canada Way Creek (Risley Road) at a cost of \$1,664,391.00 (state share \$332,879.00) (county share \$82,220.00)
- Election issue which will determine control of the Legislature is still in the court
- Norse Pipeline law suit should be settled soon at not too great a cost. The schools will pay 40%; town 30% and county 30%. All towns at 100% valuation were named in the suit.

RANDY HOLCOMB, ASSESSOR (copy of report in Minute Book)

Mrs. Thomas said she believes that the renewal notices for the enhanced STAR program will be sent out by the Assessor's office in January, 2010.

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GARY RYAN, HIGHWAY SUPERINTENDENT

Mrs. Carlson said that Mr. Ryan was unable to attend the meeting but had said that the highway had been plowing and sanding.

Mr. Stratton said the department had been cutting brush prior to the snowfall. He said the new truck has been set up with a new plow. He also said that the Cheney Creek Project had not been started because of excessive rain and on the advice of Rex Tolman they will begin in the spring.

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

Mr. Peacock said they are still waiting to hear on the grant application for modifications to the court offices.

Mr. Sena noted that revenues to the court are down.

BRAD LAWSON, ZONING C.E.O.

Mr. Lawson said there were not very many permits issued in November. He said he has been busy with the new fire hall on Stow Road. He stated that the Planning Board has been looking into a lake front overlay district not just for Bootey Bay, but also for the entire lake front which will include stricter regulations. He said he has completed his in service training for the year.

Mr. Whitney asked if Southern Tier West's schedule of classes would help or apply to his code enforcement requirements.

Mr. Lawson said the new list for the basic codes came out and they have some classes set up for next year. He said the Western NY group will be holding a conference at Chautauqua Suites in September, 2010, which will be helpful as far as saving the town money on his training. He said he will have a final report for the year end meeting. He said there have only been 4 or 5 new homes started this year.

DAVE LLOYD, STORM WATER PLANNING

Mr. Lloyd was unable to attend the meeting but supplied the following report:

- Wording for signage on the Stow Water Treatment and Cheney Creek Projects has been turned in and the signs were ordered 12/14/09. Signs for 2009 projects cost \$256.00.
- Trees have been marked for removal at the Cheney Creek Project. Extension date on project will be 8/31/10 if approved.
- The first stage of the Stow Water Treatment Project has been completed with the treatment tanks and man holes installed. Extension date on project will be 6/30/10 if approved by the Highway Sup't.
- Contract extensions for 2010 projects will be forthcoming in February, 2010.
- Would like to set up meeting with Dave Wilson in January, 2010 to go over Butts Road Wetlands Project.

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

Mrs. Thomas said that the last municipal clerks meeting, Allison Growley, Tax Division, had spoken to the clerk's. She said the county has a new tax collection program that they will be testing in the towns of Busti, Chautauqua, Mina and Ellicott. She said currently North Harmony uses a Williamson Law Book tax collection program, but in 2011 if the test phase is favorable, the county will offer their tax collection program to all the towns at no charge.

MOTION #175 OF 2009:

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. THOMAS, THE TOWN CLERK'S REPORT WAS ACCEPTED AS PRESENTED AND THE MOTION WAS CARRIED UNANIMOUSLY.

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Mrs. Carlson asked Mr. Gould if the county's ultimate goal was to take over the tax collection function.

Mr. Gould said he does not think so because there are too many parcels. He said they are already foreclosing after 2 years of non-payment of taxes. He said he had voted against this because 2 years is not enough time for someone in trouble with their taxes and they couldn't keep up with the 3 year foreclosures. He said he would do some checking into the collection of taxes.

Mrs. Thomas said they would have to hire a large number of additional staff. She said perhaps the county is doing this for uniformity of reporting in order to make their job simpler.

SALLY P. CARLSON, SUPERVISOR: (copy of report in Minute Book)

MOTION #176 OF 2009

MR. THOMAS MOTIONED THAT THE SUPERVISOR'S REPORT BE ACCEPTED AS PRESENTED. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION #177 OF 2009

MR. WHITNEY MOTIONED TO PAY THE GENERAL FUND BILLS AS AUDITED AND REVIEWED EARLIER. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION #178 OF 2009

MR. WHITNEY MOTIONED TO PAY THE HIGHWAY FUND BILLS AS AUDITED AND REVIEWED EARLIER. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION #179 OF 2009

MR. STOW MOTIONED FOR ADJOURNMENT AT 9:00 PM. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

*Nancy Thomas
Town Clerk*