

**TOWN OF NORTH HARMONY
BOARD MEETING
MONDAY, 1/12/09 8:00 PM**

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

OTHERS PRESENT: Jay Gould, Legislator; Dave Stapleton, Attorney; Brad Lawson, Zoning CEO; Gary Ryan, Highway Sup't.; Penny Best, Deputy Town Clerk; Dave Lloyd, Stormwater Planning; Barb Hoyt; Howard Peacock & Ev Bensink, Justice's; Tom Anzalone, Robin Miller, Bookkeeper; Carol Sena; Amanda Jensen, Casey O'Neill, Shannon O'Neill, Panama Central School; Ben Klein, Post Journal; Nancy Thomas, Town Clerk

- **6:30 AUDIT OF BOOKS AND VOUCHER REVIEW**
- **8:00 - CALL TO ORDER AND PLEDGE**
- **MINUTES**

MOTION #1 OF 2009:

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. STOW THE MINUTES OF THE 12/8/08 and 12/29/09 (Year End) BOARD MEETINGS WERE UNANIMOUSLY APPROVED.

- **PUBLIC COMMENT**

ADULT ENTERTAINMENT ZONING

Barb Hoyt asked about the Adult Entertainment Zoning Law that the Planning Board has been working on.

Mrs. Carlson said the Town Board does not intend to set a Public Hearing until sometime around April, 2009. She said that unfortunately the law requires that zoning for this type of entity must be available or this type of business can be placed in any area. She said that the law also requires that infrastructure (i.e. electric, paved roads) must be present in the zoned area. She said the area the Planning Board has looked at is the section of CR 33, Panama-Stedman Road between Eiden and Ramsey Roads. She said the board is open to other suggestions, perhaps on the Stedman-Sherman Road and also said that the area designated can be on town owned property. She said no applications for adult entertainment style businesses have been received by the town.

Mr. Sena said at a recent member of the Planning Board he had worked on the Adult Entertainment Law and would continue to attend those meetings. He indicated the board would certainly entertain alternative location suggestions from the public.

Mrs. Hoyt asked if a town has the power to vote to be a "dry" town, why can't they also vote no on adult entertainment business.

Mr. Stapleton said unfortunately state law mandates that these types of businesses be allowed and zoning must be provided for them. He said the purpose of the town creating an area of zoning for them is in order to have some control on their placement to insure the least impact on the population.

TOWN BOARD

Mr. Stow noted there had been a great deal of controversy on the location of an Adult Entertainment business in Ripley because of the proximity to a school.

Mr. Whitney said because Ripley had no zoning for this type of business in place they could not prevent the location of the Adult Entertainment store. He said North Harmony is trying to avoid this type of situation.

Mr. Lawson said that the Draft Adult Entertainment Law should be reviewed by those concerned.

Mrs. Thomas said she would copy and make it available to those interested upon request.

Mr. Anzalone said the area between Eiden and Ramsey Roads is zoned Ag/Residential and asked if other types of businesses commercial/retail would be allowed there.

Mrs. Carlson said there is already a retail/commercial area near the expressway and those types of businesses would not be allowed in the Adult Entertainment District. She also stated it would be a floating district.

Mr. Stapleton said technically if the town zoned the area commercial, you could put another type of business there.

- **2009 REORGANIZATION – APPOINTMENTS/WAGES**
(*A copy of the Reorganization schedule is included in the Minute Book*)

Mrs. Carlson advised that there have been some changes to the committees.

Mr. Sena agreed to serve on the Youth Recreation committee.

Mrs. Thomas said **Mr. Churchill's** term on the Zoning Board of Appeals had expired on 12/31/08, and he has decided not to serve for another term. She said that perhaps **Bill Adamson**, alternate on that board would be interested in his position.

MOTION #2 OF 2009

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS THE 2009 REORGANIZATION AND APPOINTMENTS/WAGES SCHEDULE WAS **ADOPTED UNANIMOUSLY.**

CORRESPONDENCE:

1. **NYS DOT – CHIPS \$108,106.48 (down \$509.09)**

2. **ACCESS CH5**

Mrs. Carlson said Access CH5 is requesting 501-C3 Non-Profit status and are requesting the town's continued funding support of \$2,000. She said they also want to move their location to the Town of Chautauqua office building.

MOTION #3 OF 2009

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. STOW, FUNDING IN THE BUDGETED AMOUNT OF \$2,000 WAS APPROVED FOR ACCESS CH5. **THE MOTION WAS CARRIED UNANIMOUSLY.**

request. She said they also suggested that a letter be sent asking that the sewer line be extended into Ashville also. She said she would send that letter tomorrow.

11. **NEWSLETTERS :**
- Rural Futures
 - Chautauqua Co. Fire Services
 - Town Topics

12. **PETE SMITH – CHENEY’S POINT (Letter concerning property tax cuts)**
Mrs. Carlson said she would certainly consider it during next year’s budget process.

13. **TIME WARNER – MERGER OF SUBSIDIARIES AND CHANNEL NEGOTIATIONS**

• **OLD BUSINESS:**

- **FINAL TRANSFERS FOR 2008 (Approved at 12/29/08 Year End Meeting)**

• **CLMC SIGN FOR VICTORIA ROAD PROJECT**

Mr. Lloyd presented the sign for the cooperative CLMC Victoria Road project which will be placed on Victoria at a position to be discussed. Mr. Lloyd said it could be placed on the town road just below the project.

• **SUBMETERING - DOES IT APPLY**

Mr. Lawson said it would not apply to the town because we do not own any meters or sell electric to others. He said it would apply to Chautauqua Campgrounds.

- **SCHEDULE COMMITTEE MEETING ON EMPLOYEE HANDBOOK – TUES. 1/27/09 AT 6:30 PM**

• **NEW BUSINESS:**

• **BOARD AUTHORIZATIONS: - Schedule of Board Meeting Dates 2009**

Mrs. Thomas said she would place a legal notice announcing the following dates for Town Board Meetings for 2009: 1/12/09; 2/9/09; 3/9/09; 4/6/09 (Easter); 5/11/09; 6/8/09; 7/13/09; 8/10/09; 9/14/09; 10/12/09; 11/9/09 and 12/14/09.

Authorize Highway Dept. to:

- **Town Officials to attend monthly meetings**
- **Bid for Materials – County**
- **Sign Agreement to Spend Highway Budget Funds**
- **Post Roads**
- **Attend Highway School**

MOTION #4 OF 2009:

MR. THOMAS MOTIONED TO APPROVE THE SCHEDULE OF BOARD MEETING DATES FOR 2009; AUTHORIZE TOWN OFFICIALS TO ATTEND MONTHLY MEETINGS; AUTHORIZE THE HIGHWAY DEPARTMENT TO BID FOR MATERIALS AT COUNTY,

TOWN BOARD

STATE OR TOWN BIDS; AUTHORIZE AGREEMENT TO SPEND BUDGETED HIGHWAY FUNDS FOR HIGHWAY PURPOSES; AUTHORIZE HIGHWAY SUP'T. TO POST ROADS; AND AUTHORIZE HIGHWAY SUP'T. ATTENDANCE AT HIGHWAY SCHOOL. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **COLD WAR VETERAN'S EXEMPTION**

Mrs. Carlson said the County has adopted a resolution for a Cold War Veteran's exemption.

Mr. Stapleton said the Real Property Tax Law was amended to provide some Cold War Veteran's and Disabled Veteran's levels of tax exemption. He said the town must pass a local law 90 days before the next taxable status date (3/1/09). He said Randy Holcomb, Assessor has suggested that the town pass the local law after public hearing sometime during the summer of 2009 so that it will become effective 3/1/10. Mr. Holcomb also requested that the town adopt the same levels of exemption as the county which are \$6,000 for the Cold War Vet and \$20,000 for the Disabled Vet (15% of the taxable value up to those maximum amounts).

Mrs. Carlson said copies of the county resolution would be provided to board members and it will be added to the May Agenda. She said specific dates of service will be available at that time.

Mr. Gould said the veterans affected are Korean War through Desert Storm. He said this is to cover veterans involved in actions that are considered conflicts and not war. He also noted that the exemption is only allowable for a 10 year period from the initial sign up and after that veterans will have to re-apply.

- **CONTRACT RENEWAL FOR DON MCCORD (Planning Board Consultant)**

MOTION #5 OF 2009:

MR. SENA MOTIONED TO ENTER INTO A CONTRACT WITH DON MCCORD FOR 2009 FOR CONSULTING SERVICES TO THE PLANNING BOARD AT AN HOURLY PAYMENT RATE OF . MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **AUDIT OF BOOKS (Justice, Town Clerk, Supervisor)**

Mrs. Carlson said in the future it would be a good idea to have the books available to the board members a few days earlier so that adequate time could be allowed for review by each member. She said that the Uniform Court System requirement that the books be audited early in January places time constraints on the review. Mrs. Carlson said there are not the same requirements to audit with the Town Clerk and Supervisor Books, but she feels it is a good practice.

Mr. Bensink said that he would like to have an independent paid audit of the Justice Books and feels that is what the Court System really wants. He said he did not know if the town or the Court System would be responsible for the expense. Mr. Bensink said Mr. Thomas has been helping them audit their books on a monthly basis.

Mr. Thomas said historically the Comptroller's office has audited the Courts Books approximately every 4 years. He said the Court System wants the books audited by January 10th each year.

Mr. Whitney questioned whether all the board had reviewed and audited the books. He asked if it was necessary that all board members participate in the audit.

Mrs. Carlson and **Mr. Thomas** stated they had both reviewed the Justice Books. **Mrs. Carlson** suggested the motion could be worded as a motion to tentatively approve the audit and if any major red flags appear, that the justices be brought in for further review.

There was general discussion of the requirements necessary to approve the audit and audit procedures and practices used in the past.

MOTION #6 OF 2009:

MRS. CARLSON MOTIONED THAT THE AUDIT OF THE JUSTICE COURT BOOKS BE ACCEPTED, PENDING FURTHER REVIEW BY MR. WHITNEY, MR. STOW AND MR. SENA. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED BY A VOTE OF FOUR YES, (Mrs. Carlson, Mr. Thomas, Mr. Whitney, Mr. Sena) AND ONE NO (Mr. Stow).

- **ADOPT SECONDARY STUDY ON THE EFFECTS OF ADULT ORIENTED BUSINESS**

- **SCHEDULE PUBLIC HEARING ON ADULT ENTERTAINMENT LAW (2/2/09)**

- **SCHEDULE PUBLIC HEARING ON LOCAL LAW GOVERNING WIND ENERGY**

Mr. Stapleton said the SEQRA hearing should be held before the Public Hearing is scheduled.

Mrs. Carlson said she wants to wait until the board has received adequate time to review the Draft

Law.

Mr. Sena said he would discuss scheduling the SEQRA hearing with the Planning Board on

Tuesday.

MOTION #7 OF 2009:

MRS. CARLSON MOTIONED TO TABLE ACTION ON THE FOLLOWING: ADOPTION OF SECONDARY STUDY ON THE EFFECTS OF ADULT ORIENTED BUSINESS; SCHEDULE OF PUBLIC HEARING ON ADULT ENTERTAINMENT LAW; AND SCHEDULE OF PUBLIC HEARING ON LOCAL LAW GOVERNING WIND ENERGY (until SEQRA hearing is held). MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **ZONING BOARD OF APPEALS APPOINTMENTS: Roger Vaillancourt & John Churchill**

Mrs. Thomas said Roger Vaillancourt has agreed to serve another term on the Zoning Board of Appeals. She said Mr. Churchill has decided not to renew his term. She said Bill Adamson, Alternate may be interested in the vacant position.

MOTION #8 OF 2009:

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, ROGER VAILLANCOURT WAS APPOINTED TO A 7 YEAR TERM (2009-2015) ON THE ZONING BOARD OF APPEALS. THE MOTION WAS CARRIED UNANIMOUSLY.

- **PLANNING BOARD APPOINTMENTS: John Warner**

MOTION # 9 OF 2009:

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. WHITNEY, JOHN WARNER WAS APPOINTED TO A 7 YEAR TERM (2009-2015) ON THE PLANNING BOARD. THE MOTION WAS CARRIED UNANIMOUSLY.

- **2009 TOWN/COUNTY TAX WARRANT RECEIVED BY TOWN CLERK**

WARRANT AMOUNT \$3,103,594.72 RATE \$13.18/\$1,000 (2008 \$2,830,112.75 Rate (\$12.14)

TOWN BOARD

1/12/09 (Pg. 7)

- **TOWN OF BUSTI – ASSESSOR CONTRACT AT \$24,000/YR. (Randy Holcomb)**

MOTION #10 OF 2009:

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. WHITNEY, THE SUPERVISOR WAS AUTHORIZED TO ENTER INTO A CONTRACT WITH THE TOWN OF BUSTI FOR ASSESSING SERVICES AT \$24,000 PER YEAR. THE MOTION WAS CARRIED UNANIMOUSLY.

- **REPORTS:**

JAY GOULD, LEGISLATOR:

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

- Resolution to appoint Warren Rilos and James Jackson as Chautauqua Co. Coroner's
- Grant for \$50,800 through BOCES and Chaut. Co. to educate Chaut. Co. Jail inmates
- Grant for \$5,943 for Homeland Security Black Widow Program (wages and fringes for SWAT team)
- Authorized an inter-municipal agreement with Erie Co. for the purchase of electric
- Bonded for \$12,750,000 for gas to electric at the landfill
- Resolutions for Salary increases for Co. Executive, Sheriff, County Clerk; Reduction of Legislature size and amending Health Insurance were pulled prior to the meeting.
- New e-mail address for Mr. Gould jgould@netsync.net

GARY RYAN, HIGHWAY SUPERINTENDENT:

Mr. Ryan said with the amount of snow we are getting, (172" to date) the Highway has been kept busy plowing.

HOWARD PEACOCK / EVERETT BENSINK, JUSTICES: (Report in Minute Book)

Mr. Bensink said cases are up about 200 over last year, but collections are down because out of state drivers are not always paying fines.

Mrs. Carlson asked if NYS has reciprocal agreements with other states.

Mr. Bensink said that although we can scoff their license in NYS, we can't take their license if they don't pay a fine if they are a resident of another state. He said that he believes the thruway tolls went up sometime in early January and he is noticing more traffic on I-86.

Mr. Peacock said he has received the plans from Norm Olson for the court renovations.

BRAD LAWSON, ZONING CEO: (Report in Minute Book)

Mr. Lawson said permits are down but that is not unusual for January. He said the Regnor home on Stow Ferry Rd. has been demolished but the area needs more clean up and he will contact Ms. Regnor. He said a new home is being planned for Butts Road. He said he would start taking pictures as recommended for the ISO report but doesn't know if that alone will change our rating. He said code classes will start 3/16/09.

DAVE LLOYD, STORM WATER PLANNING:

Mr. Lloyd said he has received a copy of the permit for the dredging at the Ashville Bay Marina. He said the DOT is monitoring and it appears they are in compliance. He believes they are concentrating on the mouth of the marina and avoiding any work in the wetlands area. He said grants for projects at Cheney's Creek and Stow Area are being reviewed by the CLMC board and Mr. Gould said they would probably be

discussed at the January Legislature meeting. He said he had received the Best Practices Manual Books on Erosion Control and after consideration has decided not to bill them to the town but to pay for them himself.

NANCY THOMAS, TOWN CLERK: (Report in Minute Book)

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

MOTION #11 OF 2009:

MR. STOW MOTIONED THAT THE TOWN CLERKS REPORT BE ACCEPTED AS PRESENTED. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

SUPERVISOR, SALLY P. CARLSON: (Report in Minute Book)

MOTION #12 OF 2009:

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

CHARLOTTE GROVER, DOG CONTROL (Copy of Report on file in Clerk's Office)

Subsequent to the Town Board meeting a Year End Report of Dog Control activities was submitted by Ms. Grover.

MOTION #13 OF 2009:

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

MOTION #14 OF 2009:

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

MOTION #11 OF 2009:

MR. THOMAS MOTIONED FOR ADJOURNMENT AT 9:35 PM. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

*Nancy M. Thomas
Town Clerk*