

**TOWN OF NORTH HARMONY
BOARD MEETING
MONDAY, MAY 11, 2009 8:00 PM**

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 Lloyd, Storm Water Planning; Brad Lawson, Zoning CEO; Dave Stapleton, Attorney; Jim Murphy, S&CCLSD; Rex Tolman, Engineer; Howard Peacock, Justice; Robin Miller, Bookkeeper; Sharon Turano, P.J.; Gary Ryan, Highway Sup't.; Charlotte Grover, Dog Control; John Grover, Phil Strand; Nancy Thomas, Town Clerk

- **PLEDGE**
- **MINUTES**

Frank Stow noted a correction to page 5 of the 4/6/09 minutes. *Motion #54 of 2009 BAN corrected to B.A.N.*

Frank Stow noted that a change needed to be made to *Motion #55 of 2009*. He said that you cannot amend a motion with a second; you have to amend the motion itself.

The board members agreed to make the amendment on the arrival of Mr. Sena.

MOTION #65 OF 2009

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. WHITNEY THE MINUTES OF THE 4/6/09, WERE APPROVED WITH CORRECTION (*Motion #54 of 2009 BAN corrected to B.A.N.*) AND AMENDMENT TO *Motion #55 of 2009*. THE MOTION WAS CARRIED UNANIMOUSLY.

- **ANNOUNCEMENTS**
- **CLMC MEETING - CHAUTAUQUA SUITES WEDNESDAY, 5/13/09, 6-9:00 PM**
- **MEMORIAL DAY SERVICE - SUNDAY, 5/24/09, 2:00 PM AT VETERANS PARK**
- **FRENCH AND INDIAN REENACTMENT – 5/22-25/09**

Mrs. Carlson said the reenactment will include a portage from Westfield to Mayville and a canoe trip from Mayville to Celeron. She said they would be stopping at Stow where the Town of North Harmony will provide a light breakfast for the enactors.

- **CORRESPONDENCE**

1. PLANNING BOARD MINUTES

Mrs. Carlson said there had been concern expressed by member of the Planning Board regarding their recommendation to the Zoning Board on the self storage facility proposed by Scott Sampson at Rt.394 and Wells Bay Road. She said she would like to get the Planning, Zoning and maybe the Town Boards together to discuss the Stow Area and town wide comprehensive plan that is being worked on.

TOWN BOARD

5-11-09 (Pg. 2)

2. **INDEPENDENT HEALTH – New Cobra Regulations**
Notification that a federal subsidy of 65% of Cobra premiums is available for individuals who were involuntarily terminated between 9/1/08 and 12/31/09.
3. **UB – Shifts in the Ballot Box in 2008 ARC**
Informational statistics showing the voting pattern changes in 2008.
4. **RED CROSS – Hometown Heroes Breakfast at Moonbrook Friday, 5/22/09**
Mrs. Carlson said she had nominated Bryan Stevens for this honor and invited those interested in attending to let her know.
5. **GIL RANDELL – NYS Ornithological Assoc. Position Paper expressing concerns about migrating birds and endangered species**
6. **NOTICE OF COMPLETION OF TENTATIVE TAX ROLL – BOARD OF ASSESSMENT REVIEW WED., 5/27/09 3-5:00 pm AND 6-8:00 pm IN MAYVILLE**
7. **2010 CENSUS – APRIL – JULY, 2009**
U.S. Census employees will be visiting homes from April – July, 2009.
Mrs. Thomas said she had placed notice of this on the town's website.
8. **BILL PARMENT – Response to letter sent by town regarding CDL licenses for Fire Fighters**
Mrs. Carlson said the letter stated that there are several proposals before the state legislature, including Assembly Bill 6051, to address this legislative flaw.
9. **JOSEPH GIGLIO – CDL Licenses - Letter in support of Assembly Bill 6051**
10. **NYMIR – Fee doubled for inspection of boilers**
11. **COLLEY'S POOL SALES – Workman's Comp Insurance**
12. **PHIL STRAND – Letter requesting moratorium on self-storage projects while the Planning Board works on C-1 Zoning District**
13. **TIME WARNER**
Mrs. Carlson said the correspondence included information about loss of Channels. She said she has also spoken to Sharon Hanson of Time Warner and they will not be extending lines in the town at this time.
14. **CHAUTAUQUA CO. FINANCE – Sales tax Distribution \$131,233 (May 2008 ws \$123,746.50) increase of \$7,484**
Mr. Gould said sales tax will not be up in the next quarter.
15. **CHAUTAUQUA OPPORTUNITIES - Strategic Plan Meeting Wed., 6/10/09, Jamestown**
16. **SUMMER WIND SCHEDULE RECEIVED**
17. **STEDMAN ENERGY – Letter of intent to drill on property located on Eggleston Hill Rd.**

TOWN BOARD

5-11-09 (Pg. 3)

18. **CHIPS – Letter requesting budget amendment increase of \$509.09 due to math error**
19. **NYMIR – Motor Vehicle Law enforcement fee raised from \$5 to \$10**
20. **NYMIR – Law Enforcement Newsletter**
21. **REX TOLMAN – Letter stating willingness to aid town with projects for funding under the bed tax grant**
22. **ASHVILLE LIBRARY – Closing for renovations 6/1/09 and hope to re-open by 7/1/09**

- **OLD BUSINESS**

- **HIGHWAY BUILDING - BIDS FOR TOPOGRAPHICAL SURVEY**

Mr. Tolman said he believed Mike Masters had turned in the low bid for survey work the town would like to get done. He recommended that Mr. Masters do the surveys since he has already done some work in that area.

MOTION #66 OF 2009:

MR. STOW MOTIONED THAT MIKE MASTERS DO THE TOPOGRAPHICAL SURVEY WORK AT THE TOWN HIGHWAY BUILDING AT A COST OF \$1,300.00. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Tolman said the plan is to use that survey to do a layout and estimate. He said they had looked at Frewsburg and the Town of Carroll buildings.

- **2009 TAX COLLECTION COMPLETE**

Mrs. Thomas said she has returned the tax roll to the County. She said collections were slightly down when compared to last year.

- **BOND PAYMENT MADE ON LOOMIS BAY WATER DISTRICT**

- **SOUTH AND CENTER CHAUTAUQUA LAKE SEWER DISTRICT – JIM MURPHY**

Mr. Murphy said the S&CCLSD has moved forward and authorized KUCERA to complete the mapping process for the hamlet of Ashville. He said they have also authorized their engineers to proceed with the map plan and reports sewage facilities studies update for Ashville. He hopes this will put the application in optimum position for funding. He said the town does not have sewer districts formed and a number of legal steps need to be taken.

Mr. Stapleton said sewer districts had not been formed, but he and Mrs. Carlson had discussed that in 2001 a water district had been set up with Lynn and Jerry Erickson and there is a legal description on that which goes from the lakeshore all the way back to Carpenter-Pringle Road. He said they had discussed boundaries on the sewer district and the possibility of using the same legal description for work done on those water boundaries.

Mrs. Carlson said also at some time in the future defining the lakeshore as a specific district within that entire district.

Mr. Murphy said when the economic recovery investment program was announced everyone was hopeful that some of that money would come through appropriations so that projects that were more concept

TOWN BOARD

than on the drawing board would have a chance to move forward. He does not feel there is much likelihood of that now. He said a lot of federal funds are being earmarked for projects such as water and sewer that are going through the existing agencies, but significant grant funds are supporting those projects rather than the projects being all loans or small grants. He said a program has begun called Re-innovations which would not finance the sewer along the lake but would support the S&CCLSD need for plant equipment and emergency alarm system (funding for 90% of projects) and they have been focusing on that for about 5 weeks. He said in order to make the Ashville and the southwest lakeshore sewer projects affordable grant funding for more than 85% of the projects would be needed. He said other municipalities competing for grant funds are in the same boat when it comes to affordability of rates. He said with so many competing for this grant money the town needs to have certain steps ready so that there are no issues prohibiting the projects moving forward. He said the town needs to pursue the engineering map plan and report, the study for the sewer facilities along the southwest side of the lake and in conjunction with that partnering with the Town of Chautauqua on their portion which is about one mile. He said this would take a permissive referendum.

Mr. Stapleton said after the resolution the town would have 30 days to file a petition for the permissive referendum. He said Mr. Tolman has done a sewer study along Rt. 394 and S&CCLSD was talking about doing one along the lakeshore. He said the study would have to be done all over for the plan along the lakeshore.

Mr. Murphy said the aerial mapping goes to the southwest of Rt. 394 enough to show the buildings that are 300-400' from the road centerline. He said the sewer facilities study would show the cost to serve the base area along the lake. He said the study could include the possible extension of the sewer to, for instance, a business or development on Rt. 394. Mr. Murphy said that the lower basin of Chautauqua Lake has been listed by the DEC as impaired and this might work to make the project proposal strong. He said the S&CCLSD is moving forward on the Ashville area project.

There was further general discussion of the proposed projects and grant funding.

Mr. Murphy said the following are key to being in a position for funding:

- map plan and report identifying costs (can be offset by grants of up to 50%)
- having sewer districts formed (about a 3 month process)
- receipt of proposals from consulting engineers for design work (S&CCLSD is doing that on towns behalf)

He said those commitments need to be made upfront to demonstrate serious intent to move forward.

Mrs. Carlson said in order to accomplish this, the town has already committed to the aerial photography at a cost of \$6,315. She asked if the additional cost of \$22,920 is for the next step.

Mr. Murphy said he believes that is the total for the 50 scale and 200 scale mapping. He said the town's portion of the 200 scale mapping is in the range of \$5-6,000. He said they had authorized KUCERA to do the 50 scale mapping which is more detailed and what you need for the sewer design. He said the 200 scale mapping is used more for planning. Mr. Murphy said he is advising the town to consider moving forward shortly with the map plan report which requires the permissive referendum. Soliciting requests for proposals for design engineering (approx. 3 month process) and form sewer districts.

Mr. Stapleton said the engineer will have to give the town a proposal for a cost of doing the report; a resolution will have to be passed authorizing that money to be spent; that resolution is subject to the permissive referendum.

Mr. Tolman said he could complete a request for proposal in two weeks.

Mrs. Carlson said she would like this referendum to take place when most of the summer residents will be here.

Mr. Stapleton said if a RFP is received and acted on in June that would give them 30 days to file their petition if they choose. If they haven't filed by July, the town can move forward with the creation of the district (defining the boundaries).

TOWN BOARD

There was general discussion of sewer rates and fair apportionment of those rates.

Mr. Murphy said the cost to the town to move forward with the proposal would be \$20,615.00. He said from a timing standpoint the most pressing issues are sewer districts formation; coordinating that with the Town of Chautauqua and consider the steps necessary to get RFP's for the study (which can be offset by 50% grant funds).

Mrs. Carlson asked that Mr. Tolman provide a request for proposal on the sewer study. She said letters have been sent out requesting a straw vote for the project in Ashville (deadline of 6/15/09) and we will decide next month what the town will do.

- **I-86 BRIDGE – Kevin Marcino, NYS DOT – Bridge Still Stable**

Mrs. Carlson said Mr. Marcino had called her and said he doesn't see any problem with the erosion on the I-86 Bridge since the last evaluation 2 years ago. Mrs. Carlson requested that he review that evaluation and put something in writing. Mr. Marcino said it is a pylon with a platform that goes on top of the pylon and it is very stable. She asked the board if letters should be written to the federal government asking that the NYS DOT do an inspection. Mr. Marcino indicated that the regional office should be notified. Mrs. Carlson said she would call Mr. Marcino again and if no written response is received she will follow up on it.

- **SCHEDULE PUBLIC HEARINGS – WIND ENERGY AND ADULT ENTERTAINMENT**

- MOTION #67 OF 2009

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. SENA A PUBLIC HEARING ON WIND ENERGY AND A SEQR AND PUBLIC HEARING ON ADULT ENTERTAINMENT WERE SCHEDULED FOR TUESDAY, MAY 26, 2009, AT 7:00 PM. **THE MOTION WAS CARRIED UNANIMOUSLY.**

- **TREES ON MAIN STREET IN ASHVILLE**

Mrs. Carlson made the board aware that the Highway Department has planted trees along Main Street in Ashville and expressed her appreciation for the wonderful job.

- MOTION #68 OF 2009 (AMENDING/CORRECTING MOTION #55 OF 2009)

MRS. CARLSON MOTIONED THAT THE TOWN OF NORTH HARMONY PURCHASE THE REGNER PROPERTY ON STOW FERRY ROAD. MR. THOMAS SECONDED. MRS. CARLSON, YES; MR. THOMAS, YES; MR. WHITNEY, NO; MR. STOW, NO; MR. SENA, NO. **THE MOTION WAS REJECTED BY A VOTE OF 3 NO; 2 YES.**

- MOTION #69 OF 2009 (AMENDING/CORRECTING MOTION #55 OF 2009)

MR. SENA MOTIONED THAT THE TOWN OF NORTH HARMONY PURCHASE THE REGNER PROPERTY ON STOW FERRY ROAD PROVIDED IT IS CLEANED UP AND MARKETED SO THAT IT REMAINS ON THE TAX ROLL. MR. THOMAS SECONDED. MRS. CARLSON, YES; MR. SENA, YES, MR. THOMAS, YES; MR. WHITNEY, NO; MR. STOW, NO. **THE MOTION WAS CARRIED BY A VOTE OF 3 YES; 2 NO.**

- **NEW BUSINESS**

- **STRAY CATS – STOW AREA**

Mrs. Carlson said she had asked Charlotte Grover, Dog Control to come tonight because she has received a number of phone calls regarding stray cats, particularly in the Stow area. She asked Mrs. Grover for suggestions.

Mrs. Grover said it depends on whether or not the cats are imprinted and adoptable. She said if they are not then the only option for feral cats is to euthanize. She said there are many concerns involving rabies and diseases inherent in feral cats that can be remitted to humans. She said there is a long waiting period at the SPCA for animals and no provisions for feral cats. She said they are extremely hard to handle.

Mrs. Carlson suggested that the Town Clerk check with other towns' and contact Ag and Markets about information/suggestions for the situation. It was also noted that it might be a Health Department concern.

Mrs. Grover said whatever the town decided to do; she would do her best to manage it.

- **CLIMATE SMART COMMUNITY – Requesting a Resolution to Reduce Carbon Footprint**
- MOTION #70 OF 2009
ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. WHITNEY THE REQUEST FOR A RESOLUTION TO REDUCE CARBON FOOTPRINTS WAS TABLED UNTIL FURTHER INVESTIGATION AND DISCUSSION. THE MOTION WAS CARRIED UNANIMOUSLY.
- **MITCHELL PROPERTY B.A.N. PAYMENT/RENEWAL - DUE 5/14/09 \$75,373.19**
- MOTION #71 OF 2009
ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS THE MITCHELL PROPERTY B.A.N. MATURING ON 5/14/09, WAS APPROVED FOR PAYMENT IN THE AMOUNT OF \$17,000.00 PRINCIPLE AND \$2,373.19 INTEREST. THE B.A.N. WAS RENEWED 5/14/09, IN THE PRINCIPLE AMOUNT OF \$56,000.00 WITH AN INTEREST RATE OF 3.82% MATURING ON 5/13/10. THE MOTION WAS CARRIED UNANIMOUSLY.
- **B.O.C.E. – SUNRISE COVE WATER DISTRICT B.A.N. RENEWAL – DUE 5/22/09 \$180,400.00**
- MOTION #72 OF 2009
ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA THE B.O.C.E. – SUNRISE COVE WATER DISTRICT B.A.N. MATURING 5/22/09, WAS APPROVED FOR PAYMENT IN THE AMOUNT OF \$16,400.00 PRINCIPLE AND \$5,864.70 INTEREST. THE B.A.N. WAS RENEWED 5/22/09, IN THE PRINCIPLE AMOUNT OF \$164,000.00 WITH AN INTEREST RATE OF 3.82% MATURING ON 5/21/10. THE MOTION WAS CARRIED UNANIMOUSLY.
- **PHIL STRAND – REQUESTING MORATORIUM OF STORAGE FACILITIES C-1 DISTRICT**

- MOTION #73 OF 2009

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. THOMAS THE TOWN ADOPTED A 6 MONTH MORATORIUM ON STORAGE FACILITIES IN THE C-1 ZONING DISTRICT. THE MOTION WAS CARRIED UNANIMOUSLY.

- AMEND HIGHWAY BUDGET

- MOTION #74 OF 2009

MR. STOW MOTIONED TO AMEND THE HIGHWAY BUDGET BY TRANSFERRING \$57,069.00 RECEIVED AT AUCTION FOR THE SALE OF HIGHWAY EQUIPMENT TO DA5132.2 FOR THE PURCHASE OF AN F-550 TRUCK AND TAILGATE SANDER AT A COST OF APPROXIMATELY \$55,600. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- MOTION #75 OF 2009

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. STOW THE HIGHWAY CHIPS BUDGET WAS AMENDED BY \$509.09 WHICH HAS ALREADY BEEN SPENT. THE MOTION WAS CARRIED UNANIMOUSLY.

- HR875 – SMALL TOWN REGULATIONS (Food Safety Modernization Act of 2009)

Mrs. Carlson gave a brief overview of the law and said these regulations will adversely affect small farmers. Mr. Sena said he would write a letter in opposition to this act.

- MOTION #76 OF 2009

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. THOMAS THE TOWN BOARD AUTHORIZED THAT A LETTER IN OPOSITION TO HR875 FOOD SAFETY MODERNIZATION ACT OF 2009 BE SENT. THE MOTION WAS CARRIED UNANIMOUSLY.

- EMERGENCY RESPONSE PLAN – COMPLETED AND AVAILABLE

Mrs. Carlson said the plan for the town has been completed and is available for review.

- WEIGHT LIMIT ON SPOONER ROAD

Mrs. Carlson said she had received a phone call asking about weight limits on Spooner Road. The board chose not to act at this time.

- GENERATOR FOR TOWN BUILDING

Mr. Sena said he would be willing to write up specifications for a generator at the town building so that bids can be solicited.

- MOTION #77 OF 2009

MR. SENA MOTIONED THAT THE TOWN DRAW UP SPECIFICATIONS FOR A GENERATOR AT THE TOWN BUILDING AND SOLICIT BIDS. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- REPORTS

TOWN BOARD

5-11-09 (Pg. 8)

JAY GOULD, LEGISLATOR:

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

- Local Law was passed eliminating health insurance for legislators
- Local Laws imposing term limits, size of the legislature, and requesting 4 year terms were defeated
- Resolution appointing members to the Conewango Watershed Commission (need for some upgrades on dams on the edge of the county)
- Summer hours go into effect 5/26 – 9/4/09
- Carts received stimulus money in the amount of \$1,085,500.00 and they will purchase 9 buses, a minivan, service truck and surveillance cameras
- County received \$500,000.00 grant money for the methane to electric project
- Dunkirk Airport received stimulus money in the amount of \$3,500,000.00 to reconstruct the runway
- JCC volunteer fireman program – obligation will be 5 years (3 years post education)
- Ag District #12 established for Towns of Carroll, Busti and Kiantone
- Spent \$5,000 out of 3% bed tax monies on the Veterans Moving Wall (it will be at the Brocton American Legion 9/10-14/09)
- Legislature requested that State continue with the 5% bed tax until 11/30/11
- Resolution proposed to terminate the Jamestown Dunkirk joint collection of Real Property taxes

RANDY HOLCOMB, ASSESSOR: (Report included in Minute Book)

GARY RYAN, HIGHWAY SUPERINTENDENT:

Mr. Ryan said the bridges on Ramsey Road scheduled to be started on 5/20/09 have been pushed forward to July. He said Mr. Asel is up for a pay increase which will bring him up to the current level pay scale.

Mrs. Carlson said she understands that everything is going well with Mr. Asel according to her reports.

Mr. Ryan said he would recommend the pay increase for Mr. Asel. He said the highway has completed 2 ½ miles of blacktop.

Mrs. Carlson asked Mr. Ryan how much it cost per mile to blacktop.

Mr. Ryan said he was not sure because it depends on how thick and wide you lay it. He said he laid 1 ½” of blacktop over the motopave. He said the funds spent on it were CHIPS funds.

The Town Board went into Executive Session to discuss the pay increase of Mr. Asel.

- MOTION #78 OF 2009
ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. STOW, RODNEY ASEL
WAS AWARDED A \$1/HR RAISE EFFECTIVE 5/14/09. THE MOTION WAS CARRIED
UNANIMOUSLY.

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

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

Mr. Lawson said he had received a phone call from Greg Milliland expressing interest in the Ashville Training Center as a possible site for a family fun type center.

DAVE LLOYD, STORM WATER PLANNING:

Mr. Lloyd said he has projects in mind for the 2010 bed tax grant monies:

- rain garden demo project
- permeable pavement for the Stow Ferry parking lot
- step down projects for Stoneledge Road

Mr. Lloyd spoke about problems with erosion behind Ed Jensen's and the Llama Club properties. He also gave a brief report of current projects status for the 2009 grant funds received from bed tax.

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

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

- MOTION #79 OF 2009
ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE TOWN CLERKS REPORT WAS ACCEPTED AND THE MOTION WAS CARRIED UNANIMOUSLY.

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

MOTION #80 OF 2009:

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

MOTION #81 OF 2009:

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

MOTION #82 OF 2009:

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

MOTION #83 OF 2009:

MR. STOW MOTIONED FOR ADJOURNMENT AT 10:30 PM. MRS. CARLSON SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Nancy Thomas
Town Clerk