

**TOWN OF NORTH HARMONY
PUBLIC HEARING
LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)
LOCAL WATERFRONT CONSISTENCY REGULATIONS LAW
MONDAY, 11/9/09 7:45 PM**

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

OTHERS PRESENT: Howard Peacock, Everett Bensink, Justices; Brad Lawson, Zoning CEO; Gary Ryan, Highway Sup't.; Dave Stapleton, Attorney; Jay Gould, Legislator; Sharon Turano, P.J.; Robin Miller, Bookkeeper; Penny Best, Deputy Town Clerk; Terry Toy, John Cheney, Historic Vessels; Don McCord, Chaut. Co. Planning; Louise Ortman, John Lis, Loomis Bay Assoc.; Art and Andrea McLean, Preston Buchtel, Deniese Buckingham, Nancy Thomas, Town Clerk

Mrs. Carlson opened the Public Hearing at 7:45 PM. She introduced Mr. McCord, Chautauqua Co. Planning and asked if he would provide background on the LWRP Resolution.

Mr. McCord said the Chautauqua Lake LWRP had been started some time ago and the intent was for all 9 municipalities around the lake to establish a district within which the planning would occur. He said the area focused on was Rt. 430 and Rt. 394 to the lake front. He said the towns had all looked at the law in relation to managing the lake as a valuable resource, protecting open space and scenic resources. He said the document addresses coordination of decisions and actions that affect the lake not only on a local level but also on the federal and state government levels. He said if it is adopted, all agencies will have to comply with it.

Mrs. Carlson asked if everyone was familiar with the Waterfront Consistency Regulations. She reviewed the law for those present.

Mr. McCord noted that the Minor Actions identified in the law are all exempted and would not trigger the LWRP regulations. He said the Major Actions would be the Type 1 and Unlisted Actions and the Minor Actions that will be exempted are in line with the SEQRA requirements for Type 2 Actions.

Mr. Sena asked if there was a particular form that Mr. Lawson would need completed or guidelines for these types of actions.

Mr. McCord said there is a draft checklist in the document that will be completed by the Planning Board and can be used by the developer as a guideline.

Mrs. Carlson asked if there were any other questions.

Mrs. Carlson adjourned the hearing at 8:05 PM.

*Nancy Thomas
Town Clerk*

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
MONDAY 11/9/09 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: Howard Peacock, Everett Bensink, Justices; Brad Lawson, Zoning CEO; Gary Ryan, Highway Sup't.; Dave Stapleton, Attorney; Jay Gould, Legislator; Sharon Turano, P.J.; Robin Miller, Bookkeeper; Penny Best, Deputy Town Clerk; Terry Toy, John Cheney, Historic Vessels; Don McCord, Chaut. Co. Planning; Louise Ortman, John Lis, Loomis Bay Assoc.; Art and Andrea McLean, Preston Buchtel, Deniese Buckingham, Nancy Thomas, Town Clerk

- **PLEDGE OF ALLEGIANCE**
- **MINUTES**

MOTION #149 OF 2009

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA THE MINUTES OF THE 10/12/09 BOARD MEETING WERE ACCEPTED AS PRESENTED BY THE TOWN CLERK. **THE MOTION WAS CARRIED UNANIMOUSLY.**

MOTION #150 OF 2009

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. WHITNEY THE MINUTES OF THE 10/27/09 2010 BUDGET HEARING WERE ACCEPTED AS PRESENTED BY THE TOWN CLERK. **THE MOTION WAS CARRIED UNANIMOUSLY.**

- **ANNOUNCEMENTS:**
- **BENEFIT FOR ASHLEY JOHNSON – Ashville Fire Dept. Training Center Sunday, 11/15/09, 1:00-10:00 PM, Tickets \$7 Adult and \$5 Children**
- **PUBLIC COMMENT:**

TERRY TOY AND JOHN CHENEY – BEMUS PT. STOW FERRY 200 YEAR ANNIVERSARY

Mr. Toy said the Ferry was chartered on 7/11/1811 and will be having its Bi-Centennial in 2011. He said it is time to start preparing for the event and provided a list of possible ideas for events and promotional items to help commemorate the occasion. He said they are looking for a chair person for the committee as well as volunteers to help in the coordination and execution of the event. He said probably the most important item on the list is the condition of the ferry and outlined things that needed to be done to insure it is at its best during the event (new decking, cupolas, paint, etc.). He said the condition of the landing on both sides is being discussed and the grant funding is in place to address this. He said it would be nice if it could be done by 2011. He said the condition of the light house, buildings and picnic area on the Stow side would need to be looked at as far as sprucing them up.

Mr. Cheney said the grant funding and planning for the ferry landings at Bemus and Stow is in the preliminary stages and provided proposed drawings of the landings. He said bids on the landings will not be

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taken until after January 2010 and the work would probably begin next fall. He said there is a back catch or dead water area on the Stow side that seems to hold dead fish, etc. and produces a pretty bad odor. He said he hoped that this could be addressed because it affects the use of the park and is not very pleasant for those operating and riding the ferry. He gave the following report on ferry activities in past years: 2007 240 hours worked on the ferry; 2008 176 hours; 2009 290 hours. Pedestrians: 2007 / 1,800; 2008 / 1,400; 2009 over 3,000. Automobiles: 2007 / 1,620; 2009 / 2,000. Bicycles: 2007 / 480; 2008 / 355; 2009 / 485. Motorcycles: 2007 / 180; 2008 / 120; 2009 / 200. He said the ferry is in good shape and they plan to replace the cupolas with the old style octagon ones previously used. He asked for the towns support in taking care of the dead water area at the Stow landing.

Mrs. Carlson said anyone interested in participating in the 200 Year Anniversary Celebration should contact her.

JOHN LIS, PRESIDENT – REPRESENTING THE LOOMIS BAY COMMUNITY ASSOCIATION

Mr. Lis spoke about the history of Loomis Bay and said that Goose Creek has never been dredged. He said their 5 year old community association has made the dredging of Goose Creek possible by demanding local and state officials do something about it. He said it was a 6 week project obtained through a state grant of \$38,000. He said about 15 years ago the town of Busti paved the 2 main roads in the community and all the residents of Loomis Bay are paying for it over a 20 year period. He said the Town of Busti does North Harmony a favor by maintaining those roads, plowing, etc. He said off the 2 main roads there are 4 side roads that are maintained by the residents who live on them. He said 3 of the roads are in the Town of North Harmony. He said in January, 2006 the residents living on these 4 side roads received from the Loomis Estate a letter stating that those living on these side roads will own the roads and be responsible for their maintenance. He said he is one of the residents and that they had no voice in that decision. He said he was sure the Loomis Estate tried to get the town to take over these roads, but it didn't work out because the roads did not meet the specifications of town roads (55' turn around at end). He said he had driven along every road that leaves Rt. 394 and goes to the lake. He said most roads were paved, but Wells Bay and Woodlawn Rd. went down to the lake and had roads going both to the right and left and neither of them have the 55' turn around. He said both of the roads were paved and asked why they were paved and plowed and those where he lives are not. He said Loomis Bay has grown a lot in the last 5 years (130 households) and the town is receiving a larger amount of tax dollar revenues on those properties. He said residents feel they get absolutely nothing for the taxes they are paying. He asked that the town change the specifications required for side roads and pave the 3 side roads in Loomis Bay located in the Town of North Harmony. He also asked that the town maintain and plow these roads. He said Mr. Ryan said the town has smaller trucks that could plow these roads.

Mrs. Carlson explained that Woodlawn is a private road and the town only goes as far as the turnaround. She said the roads to the right and left were paved and are maintained by the residents. She said Wells Bay is a 50' wide road/ROW that was deeded to the town and the town maintains it. Mrs. Carlson said if the specs for roads were changed at Loomis Bay they would have to be changed for every single private road in the town. She said she does not know how that could be done, but it could be discussed. She said every bay in the town has private roads with the exception of Lakeland and Watson Roads and expressed concern about setting a precedent.

Mr. Sena asked if the side roads are gravel and stone.

Mr. Lis said yes and they are very hard.

Mr. Ryan said they are 20' ROW's.

Mr. Lis said he pays a lot of money in taxes and gets nothing in return, not even garbage collection.

Mrs. Carlson said she understood.

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Mr. Lis asked if the board would sit down and seriously discuss the issue so that he can report to the association members. He said there are many arguments and the residents of Loomis Bay have a dislike for the town because of that.

Mr. Whitney asked what it would take to make the roads 50' and asked if property owners would have to deed over some of their footage.

Mr. Ryan said the roads are pre-existing and places have already built too close to the road.

Mr. Lis said people would have to give up a lot of land to make it a 50' ROW.

Mr. Sena asked if a small plow could be used.

Mr. Lis said yes.

Mrs. Carlson said once you do that you set a precedent and are obliged to do it in all of the bays.

Mr. Thomas suggested that the board discuss the issue after some thought has been given to it.

Mr. Lis agreed.

Mrs. Carlson said the town would discuss it and do some cost evaluations.

Mr. Sena asked Mr. Lis if he could provide a percentage of full time residents in his area.

Mr. Stow asked if Ed Loomis had maintained the roads when they owned it and how it was paid for.

Mr. Lis said yes Mr. Loomis had maintained the roads and there had been no charge on the roads but they did pay a yearly lease fee. He said when Mr. Loomis' children had taken over the business they began charging a yearly maintenance fee which included the snow plowing.

Mr. Ryan said the roads are about 426' long.

JOHN JOHNSTON – VICTORIA ROAD

Mr. Johnston asked about the new 40,000 sq. ft. lot size.

Mrs. Thomas said the 40,000 sq. ft. lot size is already in place at the county level.

Mrs. Carlson said if you don't have public water or sewer your lot size must be a minimum of 40,000 sq. ft. for new construction.

Mr. Stapleton said the Health Dept. will take applications for waivers on existing systems along the lake. He said they are looking at those on a case by case basis.

• CORRESPONDENCE:

1. CHAUTAUQUA CO. FINANCE – Letter regarding Norse Pipeline Resolution
-Sales Tax received \$151,205.58 (up \$14,128.51)
2. C & S COMPANIES – Copy of minutes of meeting with Steve Doleski in Buffalo
3. SCOTT SAMPSON AND SANDY WHITNEY – Thanks for Newsletter
4. PAUL MARLINSKI – Zoning Board of Appeals – Letter of Resignation effective 10/12/09
5. NYS DEC – Mining Permit Renewal Aber's Pit (Fox Rd.)
6. BID UR ENERGY – New Company regarding power supply and energy
7. ASSOCIATION OF TOWNS – 2010 Dues \$800.00 and Conference Info
8. TIME WARNER CABLE

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9. **WASTE AND RECYCLING**
10. **NATIONAL FUEL – Planning for pipeline replacement and request for any info regarding projects within towns jurisdiction**
11. **RESOURCE ENERGY – Royalties \$185.33**

- **OLD BUSINESS:**
- **ADOPTION OF LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)**
Mrs. Carlson read into the record the LWRP Resolution document.

MOTION #151 OF 2009

ON A MOTION MADE BY MR. WHITNEY AND SECONDED BY MR. THOMAS THE LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) RESOLUTION AS FOLLOWS WAS UNANIMOUSLY APPROVED.

Town of North Harmony

**Resolution of the Town Board
Adopting the Chautauqua Lake
Local Waterfront Revitalization Program**

WHEREAS, the Towns of Chautauqua, Ellery, Busti, Ellicott and North Harmony and the Villages of Mayville, Bemus Point, Lakewood and Celoron initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program was prepared and circulated by the Department of State with potentially affected State, federal, and local agencies in accordance with the requirements of Executive Law, Article 42; and

WHEREAS, the Town of Chautauqua Town Board, as lead agency, filed a Negative Declaration - Notice of Determination of Non-Significance on March 30, 2006 for preparation of the Local Waterfront Revitalization Program, pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act);

NOW, THEREFORE, BE IT RESOLVED, that the Chautauqua Lake Local Waterfront Revitalization Program is hereby adopted by the Town of North Harmony and that the Town Supervisor is authorized to permit submittal of the Local Waterfront Revitalization Program by the Town of Chautauqua, on behalf of the Town of North Harmony, to the New York State Secretary of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

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MOTION #152 OF 2009

MR. SENA MOTIONED TO ADOPT THE WATERFRONT CONSISTENCY REGULATIONS LAW (Local Law No. 4-2009). MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **GOOSE CREEK CORP.**

Mr. Lawson said Goose Creek Corporation has come to the town requesting if the town would be willing to accept the lots located there as they stand with the structures on them. He said he and Mr. Stapleton had a conference call with Mr. Mangione, representing the corporation, in which he had stated they were having trouble getting insurance for the properties. He said the issue is the non-conforming lot size and the non-compliant nature of the structures on them. He said the Planning Board will be reviewing the situation.

Mrs. Carlson said she had discussed with Jim Murphy, S&CSD extending sewer lines to the property which could possibly alleviate the lot size issue. She said Mr. Murphy said there is a main line near the Bait Shop on Rt. 394 and it could be extended back to Goose Creek. She said Mr. Mangione was not interested in having that line extended.

Mr. Stapleton said he gained the impression that Mr. Mangione did not want the expense of sewer. He said Mr. Mangione wanted to keep everything the way it is and represent to the town that there will be no changes in the future. He said they want approval for their sub-division the way it is currently set up. He said that would allow them to transfer title to these non-conforming lots as if they are acceptable to the town. He said there are lots of complications and issues with that idea and although the town has been reviewing it, they have not come up with a solution yet. He said perhaps the Planning Board can help. He said perhaps it could be parceled out with new sub-division maps and be conforming lots, but we don't know historically when these properties were established (i.e. grandfathered under existing Zoning of 1989). He said there are numerous buildings that don't meet code and the Health Dept. had been there last year after complaints from neighbors. He said the Health Dept. had reported that all the septic systems there were in good condition. He said that leaves the town up in the air from a planning or enforcement standpoint

Mrs. Carlson entertained a motion to table the matter for further information.

MOTION #153 OF 2009

MR. SENA MOTIONED TO TABLE THE GOOSE CREEK CORPORATION REQUEST UNTIL FURTHER INVESTIGATION BY THE PLANNING BOARD IS COMPLETE. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Lawson and Mr. Sena encouraged the board members and those present to visit and review the Goose Creek area in question.

- **CLMC DINNER AT SR. CITIZENS**

Mrs. Carlson thanked those who had taken the time to attend and said hopefully it provided some good information to the Town Board, Planning, and Zoning members who had attended.

Mr. Sena commended Mrs. Carlson for taking the time to head up that effort and said the program had been very interesting and informative.

Mrs. Carlson said there would probably be another meeting in the spring to plan a possible stream or ditch clean-up. She said they would like to get the towns involved and perhaps designate a county-wide day for this.

Mr. Stow suggested Earth Day for the event.

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- **PROPERTY IN ASHVILLE – Letter from NYS DEC – status of “inactive”**

Mrs. Carlson said a letter from the DEC had been received regarding the brown field located on the property at the 4 corners of Ashville that the town is interested in. She said basically the letter had designated the site as inactive but had noted that any soils generated during further site excavation from the contaminated area would have to be tested and analyzed and if the sample exceeds the acceptable values the material will require remediation and proper disposal.

Mr. Gould said if the town acquires the property they should not dig on it.

Mrs. Carlson asked if that would cause any problem with installing the pipe that had been previously discussed.

Mr. Gould said no, but the pipe should be covered with “good” soil.

Mrs. Carlson said it would be nice to make the area look more attractive (i.e. trees, picnic table). She asked for board authorization to make a written offer to the county of \$1,000.00 to cover: \$305.00/per parcel filing fee; a deed fee of \$1.00 and back taxes of \$300.89. She asked Mr. Ryan if he had received any figures on the cost of the pipe to be installed.

Mr. Ryan said he had called but they did not have the prices yet. He said he would call again tomorrow.

Mrs. Carlson said that area drains Brook Street, Stone Ledge Road and North Maple Avenue across Rt. 474 and into Goose Creek. She said it would be to the town’s advantage to purchase the lot and get the pipe placed for drainage.

Mr. Ryan said they had measured the amount of pipe needed at 55’ and said if you put 60’ in it will stick out too far into the creek.

MOTION #154 OF 2009

MR. THOMAS MADE A MOTION AUTHORIZING THE SUPERVISOR TO OFFER CHAUTAUQUA COUNTY \$1,000.00 FOR THE TWO PROPERTIES (Sections 384.10-1-35 & 36) LOCATED AT THE FOUR CORNERS OF ASHVILLE. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Gould said when the supervisor has the letter with the offer ready, he would hand deliver it to the legislature.

- **GRAVE SITE FEES 2010**

Mrs. Carlson said cemetery lot sales had been discussed in October. She said currently the town charges \$250.00 per lot. She provided the costs of other adjacent towns: Busti, \$650.00; Ellery, \$500.00 resident, \$750.00 non-resident; Chautauqua \$500.00/2009, \$600.00/2010; \$700.00/2011. She suggested that if the town increases its fees it should adopt a similar law to Ellery in which non-residents are charged more than residents/property owners for grave lots. She said the tax payers are paying for the up keep of the cemeteries whether they are residents or not. Mrs. Carlson suggested \$600.00 per lot.

Deniese Buckingham said that would be more than doubling the current charge. She said maybe the increase could be a little more gradual.

Mrs. Best asked about those who had moved their Sr. family members to another state but that family member had been a resident of the town for most of their life.

Mrs. Carlson said typically people who have lived in the town most of their life had already purchased or made arrangements for a grave lot.

Mr. Whitney asked if the town could stagger the increase the way Chautauqua has.

Mr. Thomas said he thought \$500.00 was a reasonable charge and the price could be reviewed yearly.

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Mrs. Carlson said if there were issues such as Mrs. Best had outlined they could be looked on a case by case basis.

MOTION #155 OF 2009

MR. THOMAS MOTIONED TO INCREASE THE COST OF GRAVE LOTS IN THE TOWN OF NORTH HARMONY TO \$500.00 FOR RESIDENTS/PROPERTY OWNERS AND \$650.00 FOR NON-RESIDENTS EFFECTIVE 1/1/2010. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **CONTRACT WITH PENHOLLOW DISPOSAL FOR 2010 (signed and filed)**

- **2010 BUDGET – Adjustments and Commentary**

Mrs. Carlson said the following changes had been made to the budget after the public hearing which would not affect the levy amount of \$2.39 per \$1,000.00 of assessed value:

- Page 1 – *correction to a fund location with no change to total
- Cemetery fees – addition of \$1,000 revenue
- Page 7 – Delineation of 8020.1 for Planning Board and 8020.1.2 for Mrs. Best clerk service
- CLA correction to amount which should have been \$2,500.00
- Dave Lloyd adjusted to \$7,000.00 with total Home and Community Service \$127,200.00
- Page 10 – DM5130.4 is not lease for truck but maintenance costs
- Total Highway Appropriations adjusted to \$813,385.00

Mrs. Carlson asked Mr. Ryan if he wanted the town to advertise for someone to set up and maintain the Highway Superintendent software program.

Mr. Ryan said yes.

MOTION #156 OF 2009

MR. THOMAS MOTIONED THAT THE 2010 PRELIMINARY BUDGET AS ADJUSTED BE ADOPTED. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mrs. Carlson asked Mr. Ryan to provide an accounting of dates and man hours that the highway department had spent on town parks and cemeteries to facilitate any budget changes that might be necessary.

Mr. Ryan said he did not know the dates or man hours.

Mrs. Carlson remarked that the town had not kept track of the hours it spent on highway personnel matters. She stated that we all work for the same tax payers and need to work together.

- **MALCOMB BRUCE – ASHVILLE BAY**

Mr. Stapleton said he had met with John Ordinal at Chatauqua Abstract Co. about 3 weeks ago and provided to him copies of Mr. Bruce's material. He said this was to determine who owns part of the old Chatauqua Traction Line ROW that continues to move toward Stow from the turnaround at Ashville Bay Road. He said Mr. Bruce wants the town to do some drainage work there and claimed that the town must have some ownership interest in the ROW. He said Mr. Ordinal researched the matter extensively and prepared a letter for the town stating their records reflect that the portion of the road running from the turnaround to where the town pavement ends is owned by Frank M. Waite and Hamilton B. Parker (their heirs, successors and assigns). He said Mr. Ordinal provided him with an affidavit from Samuel Culles dated 1989 that indicated he was the sole owner at the far end of the driveway and he alone would be responsible

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for all the maintenance and repairs of the driveway. He said the abstract company stated that Mr. Bruce's property which is on both the lakeside of the traction ROW and on the upland Rt. 394 side did not by his deed go to the centerline of the gravel driveway (ROW) and therefore he had no title interest in it. He said the abstract company indicated that the old traction company ROW's on this side of the lake are essentially ROW's laid on top of the fee simple ownership and interests of the prior landowner. He said on the other side of the lake they actually took title to the area on which the traction tracks were located. He said when the traction line was abandoned on the Ashville side the easements and the fee simple title under the easement continued unencumbered at that time and that's why the title would have reverted to the original owners (Waite's, Parker's) both before and after. He said at this point he doesn't feel the town has anything to offer to Mr. Bruce and there was discussion that Mr. Bruce would be responsible for the costs of the research by Mr. Ordinal. He said the research had included a review of all of the indexes at the County Clerk's office regarding Town of North Harmony conveyances to the town or out from the town and had found nothing. Mr. Stapleton said Mr. Bruce should have known this.

NEW BUSINESS:

- **RESOLUTION ON ASSESSMENT – NORSE PIPELINE**

Mrs. Carlson said she had received a confidential communication from Chaut. Co. Finance stating that Norse Pipeline is challenging their assessment by more than \$1,000,000 and that North Harmony is included (assessment amount \$18,960.00) in the action. She said that the County has requested that North Harmony authorize the supervisor to execute a resolution document in defense of the assessment along with other jurisdictions involved. She asked Ms. Turano of the Post Journal to respect the confidentiality of the communication. Mrs. Carlson read the resolution into the record.

Mr. Gould said he believed that "meaningful defense" meant the county would bear the cost of the action but the town might be required to provide testimony by the assessor.

**RESOLUTION AUTHORIZING INTER-MUNICIPAL COOPERATION
IN DEFENSE OF NORSE PIPELINE, LLC TAX ASSESSMENT MATTER**

WHEREAS, Norse Pipeline, LLC has commenced legal actions challenging the 2009 real property tax assessments for properties owned by it in the Towns of Busti, Carroll, French Creek, North Harmony, Poland, Sherman, and the Village of Sherman; and

WHEREAS, the actions seek a reduction of Norse Pipeline, LLC's assessments in an aggregate value of more than \$1,000,000, and

WHEREAS, such a reduction would adversely affect revenue streams to all the named Towns and Village, County of Chautauqua, and interested school districts, and

WHEREAS, by Resolution 216-98 the Chautauqua County Legislature established a policy for the County to participate in the defense of legal challenges to an assessment or combination of like assessments having an aggregate value of \$1,000,000 or more on the condition that the other interested taxing jurisdictions participate meaningfully in the defense, and

WHEREAS, the other named Towns and Village, County of Chautauqua, and interested school districts are expected to participate in the defense of said legal actions

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NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the TOWN OF NORTH HARMONY hereby agrees to participate in a joint legal defense of the said Norse Pipeline, LLC actions; and be it further

RESOLVED, that the Town's share of the cost of the defense shall be based on its proportional interest in the aggregate assessments as reflected by the full value tax rate for the 2009 County, 2009 Town, 2008/2009 School, and 2009/2010 Village rolls; and be it further

RESOLVED, that the Town Supervisor is hereby authorized to execute all documents necessary to accomplish the purposes of this resolution, including an inter-municipal agreement.

MOTION #157 OF 2009

MR. STOW MOTIONED TO ADOPT THE NORSE PIPELINE RESOLUTION #216-08, A JOINT LEGAL DEFENSE OF ASSESSMENT. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **ACCEPT RESIGNATION OF PAUL MARLINSKI, ZONING BOARD OF APPEALS**

MOTION #158 OF 2009

ON A MOTION MADE BY MR. THOMAS AND SECONDED BY MR. SENA, THE RESIGNATION OF PAUL MARLINSKI, ZONING BOARD OF APPEALS, WAS ACCEPTED WITH REGRET EFFECTIVE 10/12.2009, AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mrs. Carlson asked if Bill Adamson was currently the alternate on the ZBA.

Mrs. Thomas said that currently Dave Lloyd is the alternate on the ZBA. She said that Mr. Adamson had been moved into Mr. Churchill's position at the end of his 7 year term on 12/31/2008.

Mr. Stapleton said Mrs. Thomas had indicated that there was interest on the part of the town to have a local law that would permit persons living out of the township to serve on the ZBA as permanent or alternate members if they have some sort of long term standing or history with the town. He said they would have to have had previous residency or activities with the town to show some type of meaningful engagement and knowledge that would provide a benefit to the town. Mr. Stapleton said he had not drawn up the local law but could have it done at any point at which the town wants to hold a hearing.

Mr. Sena asked why the town would want someone from another town to be on its Zoning Board.

Mrs. Carlson said the only advantage would be that Mr. Lloyd has Stormwater experience but the town could have him do it anyway.

Mrs. Thomas said that if Mr. Lloyd could have found a suitable dwelling in the town, he would be still living in the town.

Mr. Sena asked if the town would be making a law for one person.

Mrs. Thomas said no, it could be any person with strong ties to the town. She said many towns have the authority to appoint persons from other towns.

Mr. Sena said he does not agree with that.

Mrs. Carlson said that was a valid point.

Mr. Whitney asked if it was done in other towns.

Mrs. Thomas said it is an appointed position, not an elected one, and the village of Celeron does this. She said the Town of Pomfret appointed Deputy Town Clerk does not have to be from the town of Pomfret.

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Mr. Stapleton said it is probably a situation in rural areas with inadequate population that requires a larger geographical area to draw from.

Mr. Whitney asked if it was a situation where they were looking for a larger pool of candidates.

Mrs. Thomas said the board has the power to appoint as well as the power to reject possible candidates for appointed positions.

Mrs. Carlson noted that Paul Silzle the current alternate could be appointed to fill the ZBA position left vacant by Mr. Marlinski.

Mrs. Best said she felt before the town spent money on legal fees to establish a law, the board should vote on whether they want to do that.

Mrs. Carlson asked if the local law was anything that interested the board. She said we have not in recent history had problems getting someone to serve.

Preston Buchtel asked what the requirements to serve on the ZBA are.

Mrs. Carlson said residency, because the board meets year round and usually property owners are not here in the winter. She said that makes it difficult to meet the quorum.

Mr. Lawson said of late the alternate position has not been an issue.

Mrs. Carlson said we can still use Mr. Lloyd when we have Stormwater issues anyway because he is our consultant.

MOTION #159 OF 2009

MR. SENA MOTIONED TO APPOINT PAUL SILZLE TO COMPLETE THE TERM OF PAUL MARLINSKI (1/1/07 – 12/31/13) ON THE ZONING BOARD OF APPEALS EFFECTIVE 11/9/09. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mrs. Carlson said the town would not pursue the local law.

Mrs. Thomas asked if the board wished to advertise for someone to fill the alternate position on the ZBA.

Mrs. Carlson said if anyone was interested in serving on that board they should contact Mrs. Thomas.

Mrs. Thomas said she would try to get an advertisement for the position on the Region page of the Post Journal.

- SEWER LINE FROM BOCES TO LINE AT SUNRISE COVE

Mrs. Carlson said there is an opportunity to get B.O.C.E.S. hooked into the S&CSD line. She said it would be beneficial to B.O.C.E.S. and to the S&CSD because the additional sewage going through would make the line work better.

Mr. Stapleton said that substantial progress has been made on this. He said S&CSD already has a resolution that they are willing to accept the additional sewage running to the Sunrise Cove system and the B.O.C.E.S. board has passed a resolution stating that they are willing to enter into an agreement necessary for the pursuit of the project through the town and the S&CSD. He said at this point he has been in contact with the B.O.C.E.S. and they are ready to move forward in drafting the necessary documents to accomplish this agreement. He said if all the parties agree to the terms of those documents we will get to the public hearing stage of the project, including bonding to finance the project. He said the bonding will be solely financed by B.O.C.E.S. participation and no one else.

Mrs. Carlson said if the sewer line is the towns' responsibility we need to indicate a willingness to allow B.O.C.E.S. to do that.

MOTION #160 OF 2009

MR. STOW MOTIONED THAT THE TOWN OF NORTH HARMONY SUPPORT B.O.C.E.S. AND THE SOUTH AND CENTER SEWER DISTRICT IN THEIR EFFORTS TO ESTABLISH SEWER LINES TO THE B.O.C.E.S. FACILITY AND AUTHORIZED THE TOWN ATTORNEY TO PURSUE THOSE EFFORTS. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **NYSERDA – ENERGY AUDIT FOR COMMUNITY AND HIGHWAY BUILDING \$100 @ REVIEW OF SOLAR SUGGESTIONS**

Mrs. Carlson said she and Mr. Whitney had met with a representative of Solar Liberty who presented them with sketches of solar panels for the roof at the Community Building. She said they do not have the drawings for the Highway Building yet. She said at one point NYSERDA was promoting a reimbursement program for solar energy. She said the cost of the project for the Community Building would be \$80,652.00 with NYSERDA reimbursing at the current rate of \$40,326.00 which would leave the town a balance of \$40,329.00. She said based on those figures it would take the town 12 years (based on a 5% annual increase of electric rates) to pay for the project. She said if NYSERDA comes back after 1/1/2010 (because they have used up a significant amount of their funding) with the same formula they had before it would cost the town \$5,000.00 for the panels rather than the \$40,329.00.

Mr. Thomas asked if what they were currently doing with the state budget Mrs. Carlson thought they would do that.

Mrs. Carlson said she had no idea. She said we have some figures and after the first of the year the Solar Liberty Representative would contact the town and let us know what the reimbursement rate and payback times are.

Mr. Buchtel asked if the town was required to use that particular manufacturer.

Mrs. Carlson said no, but this group had been at the Chautauqua Co. Energy Conference and that was why she had contacted them.

Mr. Stow asked how long the panels are useful.

Mrs. Carlson said 25 years.

Mr. Lawson said the representative should be asked if they are supplying all the engineering on the roof placement.

Mrs. Carlson said Mr. Lawson should be present at the next discussion with the representative and provided the specs for Mr. Lawson to review. She asked Mr. Buchtel to provide any names of companies he recommended to her.

Mr. Buchtel said he could also provide the names of not for profit organizations that could provide unbiased information on the subject.

It was determined after further discussion that most of the panels are manufactured in the U.S.

- **ROD ASEL, M.E.O. - \$1/HR RAISE EFFECTIVE 11/1/09**

MOTION #161 OF 2009

BASED ON THE RECOMMENDATION OF THE HIGHWAY SUPERINTENDENT, MR. STOW MOTIONED TO INCREASE THE HOURLY RATE OF ROD ASEL, M.E.O. BY \$1.00/HR. (PAY RATE OF \$20.00/HR.) EFFECTIVE 11/1/09. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **BY PASS AT STOW FERRY TO ALLEVIATE DEAD WATER AREA**

MOTION #162 OF 2009

MR. THOMAS MOTIONED TO AUTHORIZE THE SUPERVISOR TO WRITE A LETTER TO THE NYS DEC REQUESTING THAT THE COUNTY ALLOW FOR THE INSTALLATION OF A PIPE/BYPASS OR OTHER REMEDIAL STEPS TO ALLEVIATE THE DEAD WATER SITUATION AT THE FERRY LANDING IN STOW. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Stow asked if the wooden wall located at the landing interferes with the current and allows dead fish to be trapped against the wall.

Mrs. Carlson said they will be revising that when they do the ferry landing restoration.

- **REPORTS:**

JAY GOULD, LEGISLATOR

Mr. Gould said the following occurred in the legislature in October, 2009:

- Motion opposing new fees on license plates
- Two appointments to the Youth Board; Rachael Ludwig of Spring Street whose term will expire 10/31/12
- Adjustment of \$145,637.00 to the capital account for windows in the jail and the roof on the radio shop
- \$100,000.00 placed in the Chautauqua Co. Housing and Neighborhood fund. He said the county is funding 25% of this and the goal is to get other public and private funds totaling \$1,000,000.00.
- HEAP (Home Energy Assistance Program) received an additional \$77,062.00 in federal funds
- WIC (Women, Infants and Children) will be administered by the Cooperative Extension at a cost of \$180,000.00 per year
- H1N1 funds must be spent by 12/31/09 (\$393,000.00)
- Budget fund balance eliminated and estimated full value rate will be \$8.60
- North Harmony Mortgage Tax will be \$21,378.08

Mrs. Carlson said Mortgage Tax last year was \$26,688.40. She said the payment for 6/09 was \$21,378.08 and questioned the fact that is exactly the same. She asked Mr. Gould to double check the figures.

RANDALL HOLCOMB, ASSESSOR

Mrs. Carlson said Mr. Holcomb's report stated that the fire district has been balanced to the final assessment roll for the printing of the 1/10 tax bills. The Enhanced STAR exemption renewal forms will be mailed on 1/4/09.

GARY RYAN, HIGHWAY SUPERINTENDENT

Mr. Ryan said the highway has been working on end of summer projects and hauling ice control sand. He said they finished up the pipe work on Diffley and had gotten the stormwater project in Stow started. He said the department would probably not start the Cheney Pt. project this year but would like to dig out Cheney Creek. He said according to Mr. Wilson simply buying materials for the grant project is considered starting the project.

Mr. Stow asked if Mr. Ryan would be fixing the inlet at the building.

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Mr. Ryan said yes.

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

Mr. Peacock said that the written report covered everything and he has nothing further to add.

Mr. Bensink read the entire report. He said he had attended the NYS Magistrates annual fall conference at Lake Placid. He said the Unified Court System had paid for his travel expenses and one night's stay at the conference. He said the conference had been well attended and the workshops he attended were very informative.

BRAD LAWSON, ZONING CEO (copy in Minute Book)

Mr. Lawson said he had met with Mr. McGraw and he has submitted an application for an Area Variance for lot width for 4 lots along the Bootey Bay shoreline. He said he believes Mr. McGraw intends to sell the lots for building. He said the application will be reviewed by the Planning Board tomorrow night and then on to the Zoning Board. He said there is an issue with the drawings received. They are done by a registered architect, but are not stamped. He said the hotel shows as just a square on the map. He said he has spoken to Steve Doleski and they are discussing how much information Mr. McGraw needs to provide to the town.

Mrs. Carlson said the Planning Board may require more information before they make a recommendation. She said the lots will be 40,000 sq. ft. but the R-5 lot width requirement is 125' and Mr. McGraw wants a variance for 100' wide lots.

Mr. Lawson said the Slagle trailer on Carpenter-Pringle Road is being taken down.

Mr. Stow asked about the dozers on Jack Dean's property.

Mr. Lawson said he does not know anything about them, but will take a drive up there to check it out.

NANCY THOMAS, TOWN CLERK (copy in Minute Book)

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

MOTION #163 OF 2009

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE TOWN CLERKS REPORT WAS ACCEPTED AS SUBMITTED. THE MOTION WAS CARRIED UNANIMOUSLY.

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

MOTION #164 OF 2009

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

MOTION #165 OF 2009

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

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MOTION #166 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 #167 OF 2009

MR. SENA MOTIONED FOR ADJOURNMENT AT 10:10 PM. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Nancy Thomas
Town Clerk