

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
MONDAY 2/8/10 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 Stapleton, Attorney; Brad Lawson, Zoning C.E.O.; Pat O'Brien, Bill Stratton, Highway M.E.O.'s; Robin Miller, Bookkeeper; Howard Peacock, Everett Bensink, Justice; Helen & Clayton Emick; Penny Best, Deputy Town Clerk; Nancy Thomas, Town Clerk

- **8:00 - PLEDGE**
- **MINUTES**

- MOTION #20 OF 2010
ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. THOMAS THE MINUTES OF THE 1/11/10 BOARD MEETING WERE ACCEPTED AS PRESENTED BY THE CLERK.
THE MOTION WAS CARRIED UNANIMOUSLY.

- ANNOUNCEMENTS:

- CHAUTAUQUA GOP COMMEMORATION OF 155TH ANNIVERSARY OF THE REPUBLICAN CONVENTION HELD IN MAYVILLE
 - To be held at the old Mayville High School on Sat., 2/13/10 from 11 AM – 3 PM.
 - Admission free; bring non-perishable, non-breakable food item
 - Historic display by Chaut. Co. Historian Michelle Henry
 - Lunch available for purchase; sample free desserts by area restaurants

Mrs. Carlson introduced Jay Gould, County Legislator, to those present.

- PUBLIC COMMENT:

- CORRESPONDENCE:

1. U.S. – ENVIRONMENTAL PROTECTION AGENCY (EPA)

Mrs. Carlson said the EPA asked the town to report if there were any drinking water facilities. She said this did not apply to North Harmony.

- 2. CHAUT. CO. PLANNING – Comprehensive Plan Interactive workshop**
2/10/10 Dunkirk
2/11/10 JCC 6:30 – 9:00 PM

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3. **CHAUTAUQUA LAKE CENTRAL – EXCEL CAPITAL PROJECT – Vote 2/9/10**
7:00 am – 9:00 pm

Mr. Sena said he had attended the meeting that was held at the school on the EXCEL project and said the proposals were mainly concerned with increasing the capital fund balance through proceeds from the sale of the former Chautauqua School properties. He said the NYS Comptroller's office had told CLCS they could not increase the capital funds but would have to spend it. He said the vote would be to increase the capital fund for future capital improvement projects. He said the other proposition was for fund expenditure for technological improvements. He said the state had not let them go after energy conservation improvements (i.e. solar, bio-mass) because the school already has the geo-thermal system. He said if anyone had questions he could probably answer them.

Mrs. Thomas asked if there were any type of planned addition in the proposition. She said she thought the mailer sent out had referenced something of the sort.

Mr. Sena said there are no new additions planned. He said they will do some insulation on the one wall; install sidewalks; black topping parking lots, etc. He said mainly the expenditures would be for upgrades to the 10 year old computer systems.

4. **CORNELL ROADS – Local Program Newsletter**

5. **WASTE AND RECYCLING – Newsletter**

6. **NYS ORPS – TRIENNIAL AID CERTIFICATION FOR 100% ASSESSMENT - \$11,271.84**
Based on 2,629 parcels

Mr. Whitney asked if this was still paid at the \$5 per parcel rate.

Mrs. Carlson said she believed the formula has changed because the last time the town had been eligible for the 100% assessment aid in 2007; the amount received had been about \$1,000 more.

7. **TIME WARNER**

8. **CHAUTAUQUA CO. FINANCE – SALES TAX 4TH QTR. 2009 \$130,807.71 (up approx. \$6,000 from last year)**

9. **COPY OF CHAUTAUQUA FINANCE DEPT. FUND DISTRIBUTION - BREAKDOWN OF ALL MONIES RECEIVED BY NORTH HARMONY IN 2009**

- **OLD BUSINESS:**

- **2 PARCELS AT 4 CORNERS OF ASHVILLE**

Mr. Gould said the Town of North Harmony now owns the two parcels at the 4 corners of Ashville by a vote of the Legislature; 25 in favor to 0 opposed. He thanked Mrs. Carlson and Mrs. Thomas for the work they had done to help him make the case to the Legislature on behalf of the town.

Mrs. Carlson said hopefully this spring the pipe could be installed and the property cleaned up. She said Lisa Card-Certo has offered to do some planting there. Mrs. Carlson said she would talk to her about it.

- **REGNER PROPERTY**

Mr. Sena said he had included an article on the property in the town newsletter that will be sent out Thursday. He said in the article he had encouraged anyone with ideas on the property to contact him directly. He said most of the work will have to wait until spring.

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- **EMPLOYEE HANDBOOK – AMENDMENT/REVISION TO MOTION #13 OF 2010**
(In 2011 Delete Wages for Highway Employees and Mileage as these are covered under the reorganization schedule adopted each January)

Mrs. Carlson said that there had been an article number omitted in the copy of the handbook that had been presented and voted on at the January meeting. She asked if the board would like to amend the motion in order that the correct article numbers are used. She said there was no change in the content to the handbook, just a change in the article numbers.

- **MOTION #21 OF 2010 (AMENDING MOTION #13 OF 2010)**
ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. WHITNEY, MOTION #13 OF 2010 WAS AMENDED AS FOLLOWS TO CORRECT THE ARTICLES IN THE 2010 EMPLOYEE HANDBOOK:

Rev. 1/11/10 – pg. 14 Article 6. HIGHWAY EMPLOYEES' WAGE SCHEDULE FOR 2010

6.1 The 2010 hourly rate for full time employees hired prior to January 31, 2007 is \$20.42 per hour.

Regular over-time will be paid at \$31.40 per hour.

The Deputy Superintendent is to receive \$.50 more per hour or \$21.44. Overtime will be \$32.16 per hour.

Rev. 1/11/10 – pg. 17 Article 10. HIGHWAY EMPLOYEES' PAID VACATION DAYS

*Addition at end of Para. 2 - *Two week prior notice will be required for a week or more vacation. Approval by the Highway Superintendent will be required.*

Rev. 1/11/10 – pg. 17 Article 11. PART-TIME EMPLOYEES' PAID VACATION DAYS

*Addition at end of Art. 11 - *Two week prior notice will be required for a week or more vacation with the approval of the Town Justice, Supervisor or Town Clerk.*

Rev. 1/11/10 – pg. 19 ARTICLE 17. HIGHWAY EMPLOYEES' AND PART-TIME EMPLOYEES' BENEFITS PAYABLE

Article 17.2 Accrued Sick Days becomes Article 17.3

New Article 17.2: Part-time Employees' Accrued Vacation

Days - not to exceed 180 HOURS at Retirement

Rev. 1/11/10 – pg. 21 ARTICLE 23. MILEAGE

Change at end of Para. 1 – For 2010 the rate will be \$.50 per mile.

HIGHWAY EMPLOYEE WAGES AND MILEAGE WILL BE ELIMINATED FROM THE HANDBOOK IN 2011 AS THEY ARE ADDRESSED IN THE YEARLY JANUARY REORGANIZATION SCHEDULE. THE MOTION WAS CARRIED UNANIMOUSLY.

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

Mr. Stapleton said he has spoken with the B.O.C.E.S. attorney, Dan Spitzer and their engineer Mr. Alianello. He said they have reached a point where there is a second draft of the map plan and report that has been provided to the board. He said minor revisions to the draft will include the debt service levels and some operating and maintenance costs. He said cost of the capital improvements as reflected on page 9 will be maxed out at \$115,000.00 depending on the cost of the bidding process. He said the request before the town board is to establish an order for a public hearing to entertain the idea of establishing an improvement area covering solely the B.O.C.E.S. property and to issue a bond to pay for the cost of the improvements to the sewer line that would be paid totally by B.O.C.E.S. based on their assessments at that time and reflected on their yearly tax bill. He said the hearing can be both to establish the improvement area as well as pass the **TOWN BOARD**

bond at the same time. He said the board needs to enter an order calling for the public hearing with a legal publish date of 10 to 20 days prior to the public hearing.

MOTION #22 OF 2010

MR. THOMAS MOTIONED TO HOLD A PUBLIC HEARING ON THE ESTABLISHMENT OF THE B.O.C.E.S. SEWER IMPROVEMENT DISTRICT AND THE ISSUE OF A BOND TO BE PAID SOLELY BY B.O.C.E.S. ON MONDAY, MARCH 8, 2010 AT 7:45 PM PRIOR TO THE REGULARLY SCHEDULED TOWN BOARD MEETING. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Stapleton said he would provide the town clerk with a copy of the order for publication.

- **CENSUS**

Mrs. Carlson said Mrs. Thomas and Mrs. Best have spent a great deal of time reviewing addresses and the census map. She said the census forms should be sent in March and it is very important that everyone fill out the forms because all of our representation and aid is based on population and ours is one of the few towns in the county that has seen growth in the last 30 years. She said part of the reason for that growth has been the town's diligence in participating in the Local Update of Census information.

- **PLANNING BOARD MINUTES 1/12/10**

REVIEW AND RECOMMENDATION OF 40,000 SQ. FT. RULE FORTHCOMING

Mrs. Carlson said the Planning Board meeting is tomorrow night and hopefully they will have some recommendations soon on the 40,000 sq. ft. lot size rule adopted by the County.

- **AGREEMENTS WITH COUNTY FOR BED TAX MONIES**

Mrs. Carlson said she had received, signed and returned the agreements with the county for bed tax monies. She said they extended the deadlines for the Stow Area Treatment and Cheney Point Projects to August, 2010. She said she had also signed the agreement for the Water Garden Demonstration Project in Ashville across from Mildred's.

- **ENERGY AUDITS: COMMUNITY AND HIGHWAY BUILDINGS**

Mrs. Carlson said C.J. Brown Energy has reviewed both buildings. She said the auditor had called her today and stated that the town is on the right track and there is not much the town can do to improve its energy efficiency and consumption. She said she had asked if it would be worth the town's time to pursue solar energy. The auditor said he would send her the name and number of someone else to contact regarding this. Mrs. Carlson said she was not sure what type of funding might be available through NYSERDA for these types of projects.

NEW BUSINESS:

- **LOWER THE LEVEL OF THE ASHVILLE COMMONS**

Mrs. Carlson said Ron Saxton had spoken to her about the possibility of lowering the commons in Ashville so that his daughter, Sheila Saxton's, home does not flood.

Mr. Ryan said that would mean the park would be flooded when the creek rises. He asked if the drainage placed between Ms. Saxton's and the common had taken care of her flooding problem.

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Mrs. Carlson said the common and Ms. Saxton's had flooded again this past year. She said Mr. Saxton feels that since there is nothing (i.e. buildings, etc.) at the commons, diverting flood waters from the creek should not be a problem.

Mr. Lawson said he believes her flooding comes mainly from the creek, but some also occurs from above her property.

Mrs. Thomas asked if the home had a basement.

There was further general discussion of the issue and many agreed that raising the foundation higher at Ms. Saxton's property is the real answer to the problem.

Mr. Ryan said even if the common were lowered, he believes her property would still be flooded.

Mr. Lawson said Ms. Saxton is really in a "catch 22" situation because she can raise her house up, but cannot fill in because she is in a designated flood plain zone.

Mr. Gould agreed. He said in a flood plain or wetland, you can pick it up (soil) but you can't set it down.

Mr. Sena said the Saxton's might be able to work something out as long as they don't create any elevations higher than those neighboring the property.

Mr. Lawson said the Saxton's had recently added an addition and taken steps to clear all the items out of their basement so that it is somewhat flood proof.

HAZELNUT PROJECT

Mrs. Carlson said the Arbor Day Foundation has a hazelnut bush project and if you make a donation they will send some of the bushes. She said she had personally made a donation and asked the board if they had any objection to those bushes (5) being planted toward the rear of the Community Building property. She said these plants are an excellent wildlife food source.

The board expressed no objection to the project.

- **BILL ADAMSON - Wall mount grab bars for the restrooms at the Community Bldg.**

Mrs. Carlson said she had agreed to purchase the grab bars for the restrooms and asked Mr. Ryan if some of the highway employees would be willing to help with the installation.

Mr. Stow asked if the bars are up to code. He said usually this is based on the amount of space between the grab bar and the wall.

Mrs. Carlson said she wasn't sure.

Mr. Lawson said he would take a look at them.

- **REPORTS:**

JAY GOULD, LEGISLATOR

Mr. Gould said the following had occurred in the Legislature in January, 2010:

- Appointments were made to Fire Board (Jack Knowlton, Al Hamm, and Mike Gleason); confirmed the appointment of the Public Defender by a vote of 14 to 11. He said he had voted against it because he felt it was premature.
- Approved a grant for \$146,778.00 for a vehicle to transport the Chaut. Co. bomb robot. He said this was a state grant and there were no local funds involved.
- Voted to accept court security monies from NYS of \$660,000.00 for 4/09 thru 3/31/10.
- America Recovery and Reinvestment Act grant for 13 carts buses for \$922,000.00
- Voted to turn over the ROW built by the county to National Grid to conduct power from the methane system at the landfill to the power grid.

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- Airport restaurant has been rented again for \$600/mo. Mr. Gould said the restaurant will offer blues music and stay open later for business.
- Grant approved from HUD for county wide lead removal in old homes for \$2,500,000.00/3 years.

RANDY HOLCOMB, ASSESSOR

Mr. Holcomb provided a written report which stated that they have done the data collection on new construction in the town. He reminded the board that all applications for exemptions (STAR, Veterans, etc.) must be received by 3/1/10 taxable status date.

GARY RYAN, HIGHWAY SUPERINTENDENT

Mr. Ryan said the highway has received the new John Deere tractor and the new superintendent's truck. He said things are a little slow until the next snow and they are working at the shop.

PANAMA-STEDMAN (CR-33) TOWN LINE SIGNS

Mr. Stow asked **Mr. Ryan** who had placed the signs on the Panama-Stedman town-line road and said the signage does not reflect the true town line and believes they are at least 300-400 feet or more off the line. He asked if that was an issue.

Mr. Ryan said he did not know exactly where the town line is there.

Mr. Whitney said it is a county road and they had probably moved them.

Mr. Stow said he suspects a resident may have moved the sign in order to be outside North Harmony zoning.

Mr. Ryan asked if all the signs have been moved.

Mr. Stow said no, just the one. He asked if the town should move the sign to the correct location.

Mrs. Carlson noted it is the town's sign.

Mr. Gould suggested a call pointing the issue out to the county to see if they would move them for the town.

Mrs. Carlson said the town would have to be able to tell the county exactly where the signs should go.

Mr. Stow said they should be at the back edge of the Rexford property located in North Harmony toward Panama. He said Schutt's own the next property which is located in Harmony.

Mr. Ryan agreed to contact the county about the issue.

COMPUTER HARDWARE DUMPED ON WALL STREET ROAD

Mr. Stratton said monitors, 2 hard drives and CD players were all dumped on Wall Street Rd.

Mrs. Carlson said those items are considered hazardous waste and the town would have to pay to have those disposed of. She asked those present to notify the town if they see this type of illegal action taking place.

Mr. Lawson said if we have the hard drives our computer tech Mike Jones may be able to determine who the computers belong to.

Mrs. Carlson asked if the highway could pick up the items and said at that point Mike Jones could be contacted about identifying the owner.

It was also discussed that the county has provided an opportunity once a year at the transfer station to get rid of computer items at no charge.

Mrs. Emick said you can remove the hard drive from a computer and get rid of the rest.

HOWARD PEACOCK / EVERETT BENSINK, JUSTICES (report in minute book)

Mr. Bensink said that of the monies the court takes in about 41% comes back to the town.

Mr. Peacock said that January Calendar call had probably set a record for the number of attendants.

Mr. Bensink said the new court regulations require that in order for a judge to lower any charges an Assistant District Attorney or an officer of the Sheriff's Dept. must be present.

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Mr. Peacock said this required the A.D.A. to make recommendations for reduction on parking ticket fines, etc. He said that State Trooper's are no longer authorized to plea bargain on a ticket they have written. He said the court session had moved along fairly quickly even with the large numbers.

Mr. Bensink noted that all parking ticket fines go to the town. He said that a comparison report has been given to the board and stated that in 2009 although there were 300 less cases, the courts had still collected about \$67,000.00 more than 2008.

Mrs. Carlson thanked Mr. Thomas and Mrs. Stow for compiling the information for the report. The report indicated that in 1987 the court had sent \$39,327.00 to the Comptroller for 880 cases; 2009 the court sent \$304,899.00 (*figure does not include court revenues received*) to the Comptroller for 3,001 cases.

Mr. Bensink said some of the increased revenues can be credited to the increase in the surcharge from \$55 to \$85.

BRAD LAWSON, ZONING C.E.O. (report in Minute Book)

Mr. Lawson said that January was typically slow and no permits had been issued. He said he had met with the prospective buyers of the old Nickerson property on the corner of Cheney and Butts Roads. He said they had discussed their proposal and for now he would wait to see how things go. He said the property has about 300 plus feet of road frontage. He said the fire department building is coming along nicely. He also stated for the record that instead of having the Bootey Bay property go to a non-profit organization, he believes the property could be developed in a way that could be very pleasing to the town and those who live in it from a tax base perspective. He said that if a developer could be sought out a very good project could come out of it whether it be hotel or residential with bike and walking paths, etc. He requested that the town oppose anything that a non-profit might want to come in and purchase it for.

Mrs. Carlson said she had certainly made that known to the DEC. She said Steve Doleski, DEC, had been very up front about the fact they would like to have that property. She said she had told him the DEC already had 60 acres at Tom's Point and the town doesn't really need to lose more assessment.

Mr. Lawson said in his conversations with Mr. Stow they had agreed that the town does not want phosphates, silt, etc. to damage the lake. He said that NYS has a parcel on the lake that they rent out to local farmers and allow them to disturb and fertilize those fields, yet will persecute someone on the back forty for chopping down some trees and disturbing the watershed. He said this is very frustrating for the C.E.O. and for the residents of the town. He expressed the hope that the town would oppose any action to remove the parcel from the tax roll.

NANCY THOMAS, TOWN CLERK (report in Minute Book)

Warrant and omitted tax 2008 Chautauqua Utilities

Mrs. Thomas said the clerk's office has been very busy during the tax collection process. She said as of 2/6/10, the clerk's office had collected \$1,895,637 (approx. 60%) of the warrant amount of \$3,167,079.000 with an outstanding amount of \$1,271,441.00 yet to be collected. She said the office had intended to satisfy the town's portion of the warrant but there have been issues with the county including in the special district portion of the warrant an omitted tax amount from 2008 on Chautauqua Utilities of \$14,040.00. She said she has tried to contact Alice Growley, Tax Division, but has not been successful and will continue to try to contact her to clarify the issue.

Dog Enumeration and status of NYS Ag. and Markets Dog Licensing Program

Mrs. Thomas said she would like to start investigating the requirements for a dog enumeration. She said it appears that NYS Ag. and Markets will be turning over the licensing of dogs to the municipalities. She said this change could take place as early as January, 2011. She said that the Ag. and Markets liaison of the NYS Town Clerks Association (NYSTCA) has been working closely with the Div. of Animal Industry, Ag. and Markets to assure facilitation of forms, actual licenses, etc. that the clerks may need to make a smooth

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transition. She said Mrs. Best has already been working on placing dog records into an ACCESS computer program in order to be prepared for this change.

Board of Assessment Review (BOAR) vacancy

Mrs. Thomas said she had received a letter from the Assessor regarding the Board of Assessment Review (BOAR) member appointments. She said Lynn Phillips term had expired on 9/30/2009. She said she had contacted Mr. Phillips and he had indicated that he did not wish to seek another term of appointment. She said if the board agreed, she would place a notice of the vacancy in the Post Journal.

Mrs. Carlson said the newsletter would be printed on Thursday and perhaps something could be included about the vacant position there.

Mrs. Emick said she would be interested in serving and asked what the time frame for that board was.

Mrs. Thomas said Grievance Day is held on the 4th Wednesday in May. She said you are required to take a 3 hour training course in order to serve on the BOAR.

MOTION #23 OF 2010

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

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

MOTION #24 OF 2010

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

MOTION #25 OF 2010

MR. WHITNEY MOTIONED TO APPROVE PAYMENT OF THE GENERAL FUND VOUCHERS AS AUDITED AND REVIEWED EARLIER. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION #26 OF 2010

MR. WHITNEY MOTIONED TO APPROVE THE PAYMENT OF THE HIGHWAY FUND VOUCHERS AS AUDITED AND REVIEWED EARLIER. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

MOTION # OF 2010

MR. SENA MOTIONED FOR ADJOURNMENT AT 9:15 PM. MR. THOMAS SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

*Nancy Thomas
Town Clerk*