

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
MONDAY, 9/13/2010, 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: Brad Lawson, Zoning CEO; Dave Lloyd, Stormwater Planning; Jay Gould, Legislator; Gary Ryan, Highway Sup't.; Howard Peacock, Ev Bensink, Justice's; Robin Miller, Bookkeeper; Betty Ryan, Lisa Schmidfrerick-Miller, Robin Miller, Bookkeeper; Chris Yates, CLA; Dave Stapleton, Attorney; Nancy Thomas, Town Clerk

- **8:00 – PLEDGE**

- **MINUTES:**

MOTION #129 OF 2010

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. THOMAS THE MINUTES OF THE 8/9/10 TOWN BOARD MEETING WERE ACCEPTED UNANIMOUSLY.

- **ANNOUNCEMENTS:**

- Ashville Fire District meeting Tuesday, 9/21/10, 7:00 PM, Station #2 to discuss Station #1 Building and response time
- Ashville Fire Dist. Station #2 Open House 10/9/10, 1-4:00 PM
- Bemus Pt./Stow Ferry Bicentennial meeting Tuesday, 10/5/10, 7:00 PM, Community Bldg.

- **PUBLIC COMMENT:**

LISA SCHMIDFRERICK-MILLER – CHAUTAUQUA CO. HEALTH NETWORK

Ms. Schmidfrerick-Miller said she is working with Healthy NY on some Bicycle and Pedestrian plans and the County Planning Board has asked them to develop more projects (i.e. greenways, trail programs). She said the group she works with is responsible for the publication of the Bike Chautauqua maps. She said they are in the process of interviewing firms to complete a comprehensive plan for a greenways and trail plan which will be funded by a bed tax grant in the amount of \$50,000.00. She said the long term plan is to start or complete a project and perhaps leverage money for other projects. She said with this plan in place the door opens for State and Federal Grant funding. She said this all depends on having a comprehensive plan in place and they are requesting input from municipalities at a series of public sessions and hopes the town might participate in the sessions. She said ideas for projects might include overland trails, utility ROW's, rails to trails, etc. that will cross municipal boundaries.

Mr. Sena suggested Tom's Point as an area of interest in the plan, but said the DEC would have to be consulted.

Mrs. Thomas said she would post meeting dates on the town's website.

CHRIS YATES, PRESIDENT CLA

Mr. Yates thanked the town for their budget support in 2010 (\$2,500.00). He said the CLA is facing funding challenges as NYS provided no funding in 2010 and cut their 2009 funding in half (\$25,000). He

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said the 2009 funds are still pending at the state level. He said currently they rely on private, corporate, county and municipal funding which is of the utmost importance. He provided the following information:

- 8 million pounds of weeds (4,000 truckloads) were removed from the lake this summer
- CLA has required the use of a second shift of operation because of the rapid growth of weeds
- Chautauqua County funding is in question because of the \$18,500,000 budget deficit
- CLA helped with the clean up from the recent tornado
- Condition of the lake effects the entire local economy
- CLA completed dredging of Goose Creek to make it navigable
- CLA continues shoreline cleanup and their vessels are permanently stationed in the town during the summer season
- CLA participated as a voting member of the CLMC and participated in the development of the Lake Management Plan which is available for review on the Chautauqua Co. website under the Economic Planning Dept.
- Weekly operation reports for the CLA are available at www.chautauqualake.org
- CLA has used natural deterrents and the Eurasian milfoil is under control but other sub-aquatic vegetation still exists which will be addressed in a separate report by local experts.
- Duration of the blue green algae was short this year but control is still an issue with run-off and the use of phosphorus substances.

There was lengthy discussion regarding the transfer of invasive species to the lake and measures that could prevent this.

CORRESPONDENCE:

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

1. **LISA SCHMIDTFRERICK- MILLER – Letter regarding Dog Control Issues in the Town**
Ms. Schmidtfreerick-Miller read her letter expressing her concerns for those present and stated that she was not related to S. Miley Miller or Mary Miller.
2. **S. MILEY MILLER – Letter 8/30/10 regarding Dog Control Issues in the Town**
Mr. Whitney read Mr. Miller's letter into the record.
3. **MARY MILLER – Letter 8/31/10 regarding Dog Control Issues in the Town**
Mr. Whitney read Ms. Miller's letter into the record.

All three letters addressed the issue of dog control in North Harmony particularly on Erickson, Randolph, Fox, Diffley and Open Meadows Roads. Ms. Schmidtfreerick-Miller said she walks and bicycles and has been bitten by the dog (Buddy) at 2072 Erickson Road, and has been accosted by aggressive dogs on all these roads. She said Buddy continues to display aggressive behavior and is even encouraged by his owner to do so despite having been spoken to by the town's dog control officer. She requested that the town establish a leash law for the safety of both residents and dogs. She said dogs that are allowed to run off their owners' property are a danger to motorists, cyclists, walkers, and joggers. She said even the non-aggressive dogs can cause accidents. Mr. Miller and Ms. Miller's letters expressed the same sentiments and said a resident should be able to enjoy a walk in their neighborhood without fear of dog attack. The following addresses and description of dogs were listed as problem areas: 6024 Randolph Rd. (black lab, white pit bull); 2072 Erickson Road (golden retriever); 2111 Erickson Rd. (white lab type); Fox Rd. trailer (black lab type).

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Mrs. Carlson said Ms. Grover, Dog Control and Mr. Stow, Deputy Dog Control, have spoken to some of these owners and asked Mr. Stow if he felt it had done any good.

Mr. Stow said he didn't think so, but there have been burglaries in the area and many people feel that if their dog is tied they cannot provide deterrent for this type of behavior. Mr. Stow said it would be helpful if those with issues would provide some type of sworn statement regarding the dogs.

Mr. Thomas said during his time as a Justice he had countless cases of dog aggression brought into the court. He said the law allows that these people be brought to court and given a choice of controlling the dogs or having the dogs destroyed. He said even with a leash law there are always people who will let their dogs run loose. He said those who have problems with aggressive dogs should call the Sheriff's Dept. and insist that they file a complaint.

Ms. Schmidtfrerick-Miller asked why there is a leash law in some parts of the town and not in others. She said she had tried to use sprays to discourage the dogs but if you can't hit them directly in the eyes, it doesn't help. She said there are ways to keep your dogs on your property and still allow them to protect that property (i.e. underground electric fences).

Mrs. Carlson said the Hamlet of Ashville and the bays to the lake have leash laws because of the concentration of population in those areas.

Mr. Sena and Mrs. Ryan said they also have had incidents with aggressive dogs in their rural areas.

Current town law (Sec. 3.B.) prohibits a person who owns or has control of a dog to allow it to engage in attacking, biting, chasing, or otherwise harassing a person in an intimidating manner. Sec. 5.B. authorizes the dog control officer to issue and serve an appearance ticket to an owner in violation of the local law.

Mr. Thomas said in the past Ms. Grover had issued appearance tickets for court for these types of dangerous dog incidents.

Mrs. Ryan said she had called the Sheriff's Dept. when she was attacked and the officer had not been responsive.

Robin Miller said that she has also had problems with "Buddy" on Erickson Road. She said she had reported the incident and situation to Ms. Grover and she had spoken to the families owning the dogs in question. She said Ms. Grover had given her a copy of the violation notice and said if she wished to press charges, she could. She said she had not been aware that Ms. Schmidtfrerick-Miller had been bitten by one of these dogs when she called Ms. Grover. She said the situation is escalating. Mrs. Miller said she had not filed a formal complaint yet.

Mr. Bensink said it is not fair to force a leash law on all dog owners just because some owners refuse to control their animals.

After further general discussion the consensus was that residents who are accosted by aggressive dogs should contact the Sheriff or Dog Control and insist upon filing a formal complaint requiring a summons for a court appearance by the owners of these animals so that action can be taken.

4. **N.Y.S. INSURANCE- ST. GEORGE- WORKMEN'S COMP EXPIRES OCT. 1, 2010**

5. **LICTUS KEYSTONE- FILTERS FOR GASOLINE**

6. **NATIONAL FUEL- PROJECTS FOR UPCOMING YEAR**

7. **N.Y.S.- DEFERRED COMPENSATION- SENT FOR INFORMATION**

Mrs. Thomas said she had briefly reviewed the information sent about the plan and would see that it is made available to the highway employees. She said the plan allows for pre-tax dollars to be invested into various funds ranging from low risk to high risk and requires a board resolution stating intent to participate

before it can be implemented. She said if anyone was interested she could arrange a meeting with a representative.

8. **SMART MANAGEMENT FOR SMALL CITIES- OCTOBER 6-7, 2010**

9. **N.Y.S. YOUTH RECREATION FUNDING- \$940.00**

10. **CHAUTAUQUA COUNTY- TAX COLLECTOR'S FEES \$370.00**

11. **ASSOCIATION OF TOWNS- DUES \$800.00**

12. **N.Y.S RETIREMENT**

13. **NEWS LETTER- E & M ENGINEERS**

14. **ZONING BOARD OF APPEALS HEARING 8/25/10**

Mrs. Carlson said that a Special Permit had been issued to the prospective buyers of the Ashville Fire Dept. Training Center to operate a high end antique auction house at that location. She said this should be a shot in the arm for Ashville area business.

OLD BUSINESS:

• **DOG LICENSING- NEW DOG LAW**

Mrs. Thomas said the Sample Law distributed to the board members is from the town of Oswegatchee and municipalities are still awaiting the Sample Law promised by NYS Ag and Markets.

• **LIGHTHOUSE PARK**

Mr. Sena said the door to the ferry building has been replaced. He said he has had other people looking at the problem of installation of the blocks on the walkway and everyone has a different idea of what will work. He will continue to work on the problem and would like to investigate the use of different adhesives. He said the lighthouse was cleaned, treated, and additional vents installed but still displays problems of serious decay that will grow worse. He said he would like to take a look at the one in Mayville to see how it is holding up. He said he would like permission to get some estimates on painting the lighthouse.

• **SURVEYING AT NEITS CREST (2 ROW's)**

Mrs. Carlson said the surveys of the 2 ROW's at Neits Crest have been completed. She said people have been storing their docks on the towns ROW and Mr. Ryan had requested the surveys before posting signs.

Mr. Ryan said signs stating "No Storage on Town Property" should cover just about everything.

• **WILD ROSE CEMETERY, MORLEY ROAD**

Mrs. Carlson thanked Mr. Ryan and the Highway Dept. for all the work they have done at the Wild Rose Cemetery. She said after the cemetery was recently surveyed it was discovered that there was a great deal more land there than thought. She said they had done a great job clearing and putting in a road for a recent burial there. She said input is needed on what to do with the area to the right of the driveway.

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Mrs. Thomas said that if the cemetery is to be active, Mr. Knowlton, Cemetery Sextant would like to

take over the maintenance. She said he has indicated that there is a great deal of work to be done just to get it to the maintenance level.

Mrs. Carlson said she would arrange a meeting at the cemetery with herself, Mr. Knowlton, Mr. Ryan and Mrs. Thomas to discuss what action is needed.

- **HIGHWAY BUILDING- FINANCING OPTIONS**

Mrs. Carlson said there are two options for funding the new highway building: 1) Bond Anticipation Notes (BAN) for 5 years or 2) Serial Bonds for a longer period of time. She said serial bonds require the town have a financial advisor and bond council which require both more time and money. She said she would prefer to use a BAN if possible and the current interest rates are 2.5%.

- **BUDGET WORK SESSION MEETING SCHEDULED FOR WED. 9/15/10 AT 7:00 PM**

- **TRANSFER STATION**

Mrs. Carlson said John Penhollow our current transfer station contractor had requested that the bids for the transfer station be for 3 years instead of the 1 or 2 years advertised due to the difficulty in projecting costs for 2 years.

Mrs. Thomas said the legal notice had already been published for 1 or 2 year bids.

It was decided by the board to leave it as 1 or 2 year bids.

- **PLANNING BOARD – APPOINTMENT OF LOUIS RIEG**

MOTION #130 OF 2010

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. STOW, LOUIS RIEG WAS APPOINTED TO FULLFILL THE TERM OF JULIE LESCYNski ON THE PLANNING BOARD EFFECTIVE (9/13/10 – 12/31/14). THE MOTION WAS CARRIED UNANIMOUSLY.

- **BOCES SEWER DISTRICT**

Mrs. Carlson said there has been a slight problem with the BOCES Sewer Project. She said the contractor had not applied for the DOT permit until Wednesday, 9/8/10. She said the application had been hand delivered on 9/13/10.

- **MARCELLUS SHALE DRILLING**

Mr. Stow asked if the board would be taking any action on the resolution presented regarding the Marcellus Shale drilling.

Mrs. Carlson said the DEC is holding a hearing on it on Wednesday, but at this point it does not really involve or impact our area.

No board action will be taken at this time.

NEW BUSINESS:

- **LAKEFRONT SEAWEED CLEAN UP**

Mrs. Carlson said when the Planning Board Public meeting on the Comprehensive Plan was held at the Senior Citizen Center residents from Woodlawn asked if weeds pulled from the lake by property owners could be picked up.

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Mr. Yates said that they do not go onto private property or roads without permission, but if home owners pile weeds next to the road that CLA trucks will try to pick them up by phone appointment. He said

Mr. Swanson should be called to discuss this and schedule appointments.

● **CCIDA – NEW TAX EXEMPT POLICY**

Mrs. Carlson said the CCIDA has developed a new policy for tax exemption and a copy of this law has been given to Mr. Stapleton. She said she is meeting with the CCIDA tomorrow at 1:00 because they want to look at applying this exemption (payment in lieu of taxes) to Chautauqua Utilities. She said she does not believe the town has much input in their decision.

Mr. Stapleton said it appears this is a county wide policy that they are trying to implement and that is what the discussion will be about.

REPORTS:

JAY GOULD, LEGISLATOR:

Mr. Gould said the following occurred at the August Legislative meeting:

- County budget hearings will be held 10/4-9/10
- Presentations by CLMC and Water Quality Taskforce
- Mr. Gould was reappointed to the Southern Tier Railroad Authority and the STOP DWI Board. He said when people are issued a DWI charge the money goes to NYS and then comes back to the county where the STOP DWI Board decides how to spend these funds (i.e. enforcement, advertisement, etc.).
- Grant for 2010-11 \$237,702 (Jamestown PD \$84,827; Sheriff \$56,875; D.A. \$88,000; Probation \$8,000) for Operation Impact Funds to reduce violent crimes in the primary impact jurisdiction of Chaut. Co.
- HAZ MAT Grant for \$62,811 for tool to analyze pollution elements (i.e. mercury, lead) in substances.
- Voted to purchase a used truck from Mayville Fire Dept. to be used as a Dive Team vehicle.
- Snow mobile trails
- Reduction of sales tax from 7 ¾% to 7 ½% effective 12/1/10, was the main topic of discussion. He said we are probably the only county in NYS to reduce their sales tax in these times. Towns and state will be held harmless. State is discussing reinstating sales tax on clothing less than \$110 at approximately 4%. He said since cash registers are programmed to tax at a percentage rate, 7.50% on a paper product and 4% on a shirt will not work in the register.

Mr. Sena said this will just force people to shop in Pennsylvania.

Mrs. Carlson asked if the legislature had ever considered imposing a fee and stickers for boats that use the lake.

Mr. Gould said he had brought the issue up a couple of times and they do not have that power because boats come under the authority of NYS Div. of Motor Vehicles. He said snowmobiles you can.

Mrs. Carlson said wash stations for boats that come from other areas had been discussed in order to prevent cross contamination of our lake.

GARY RYAN, HIGHWAY SUPERINTENDENT:

Mr. Ryan said the Highway Dept. has been blacktopping, sealing and working on the road next to the A.F.D. Station #2. He said he plans to lay the blocks at Cheney's Point on Monday for the bed tax project.

Mr. Sena asked about the signs on Spooner Road.

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Mr. Ryan said they are up.

HOWARD PEACOCK & EVERETT BENSINK, JUSTICE'S:(copy of report in minute book)

Mr. Bensink read into the record the written report.

BRAD LAWSON, ZONING CEO: (copy of report in minute book)

Mr. Lawson said he has received many positive remarks on the newsletter that the town sent out in August and people would like to see it continue. He said code enforcement classes will start on the 27th at Chautauqua Suites. He said he has been working on resolving a couple of violation issues on Open Meadows Road. He told Mr. Sena that the two places he had called him on are both permitted (Cook's on Bly Hill and Allen's on Stow Road). He thanked Mr. Lloyd for stopping and speaking to the Swanson's.

DAVE LLOYD, STORMWATER PLANNING:

Mr. Lloyd said he had been down and spoken to the Mlacker's and Swanson's on Rt. 394 who have a problem with water between their properties on the lake. He said he had given the Mlacker's some ideas for remediation of the problem to help relieve neighborly tensions. He said he visited the Swanson's later after a rain storm and they had Phil Baker down doing some work on their driveway and lawn. He said Phil's work should help relieve their problems and they are pushing at least 80-85% of their water toward a stream that is on the other side of their home (Federico's side). He said they seem to be complying with what Mr. Lawson had requested and encouraged Mr. Lloyd to come back during a rain storm to see how things are going. Mr. Lawson said both families had been given violations and at this point he feels the Swanson's are in compliance and it appears the Mlacker's who provided a written plan of action are in the process of complying. Mr. Lloyd said the Stow Area Project report was turned in to the County Watershed Coordinator, Rick Constantino on 8/20/10. He said the bed tax funding of \$28,631.25 which has been delayed due to the county budgeting process will be forthcoming. He said the Cheney Creek project will be started soon. He said they are waiting for the use of an excavator through shared services from Ellicott and once that is available it should take about 3 days to complete that part of the work. He said Rick Constantino has received a complaint from one of the neighbors who thought the project was done and that the town had created quite a mess. He said they had assured him that if he wanted to look at a similar project that was complete he could check out the Shadyside Road project. He said he has a meeting with Rex Tolman on Wednesday in Ashville to go over the Rain Garden project.

NANCY THOMAS, TOWN CLERK (copy of report in minute book)

Mrs. Thomas reminded everyone that the town will host a Rabies Clinic at Ashville Fire Station #2 on Monday 9/20/10, from 5:30-7:30 PM.

Mrs. Carlson asked when the dog enumeration would begin.

Mrs. Thomas said Mrs. Best would begin on Tuesday, 9/21/10.

MOTION #131 OF 2010

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

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

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MOTION #132 OF 2010

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

MOTION #133 OF 2010

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

MOTION #134 OF 2010

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

Mr. Stow reminded everyone that 9/21/10, was Primary Election Day and to Vote from 12-9:00 PM at Ashville Fire District Station #2.

MOTION #135 OF 2010

MR. STOW MOTIONED FOR ADJOURNMENT AT 10:00 PM. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

*Nancy Thomas
Town Clerk*