

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
MONDAY, 10/10/11 8:00 PM**

SALLY P. CARLSON, SUPERVISOR	PRESENT
RALPH WHITNEY, COUNCILMAN	PRESENT
FRANK STOW, COUNCILMAN	PRESENT
DICK SENA, COUNCILMAN	PRESENT
DUNCAN MCNEILL, COUNCILMAN	PRESENT

OTHERS PRESENT: Jay Gould, Legislator; Dave Stapleton, Attorney; Dave Lloyd, Stormwater Planner; Brad Lawson, Zoning CEO; Gary Ryan, Highway Sup't.; Louis Rieg, Planning Board; Clayton & Helen Emick; Howard Peacock, Everett Bensink, Justice; Nancy Thomas, Town Clerk

- **PLEDGE**
- **MINUTES - 9/12/11 & 9/15/11**

MOTION #136 OF 2011

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. MCNEILL, THE MINUTES OF THE 9/12/11 AND 9/15/11, BOARD MEETINGS WERE APPROVED UNANIMOUSLY.

- **ANNOUNCEMENTS:**
- **HALLOWEEN HOURS FOR NORTH HARMONY: Monday 10/31/11 from 5-7:00 PM**
- **INTER-MUNICIPAL LAKE COMMITTEE – Next Meeting Thursday, 11/3/11 at North Harmony Sr. Citizen Bldg. 7:00 PM**

Mrs. Carlson said the speaker would be from the Conewango Watershed. He will discuss their laws and what they have done about storm water runoff. She said it would be good if all the boards could have representation.

- **ASHVILLE FIRE DISTRICT – PUBLIC HEARING THURSDAY, 10/13/11, AT 7:00 PM**
- **ASHVILLE FIRE DISTRICT VOTE ON PURCHASE OF COUNTY BUILDING ON S. MAPLE AVE. TUESDAY, BOCES BUILDING “A”, 5-9:00 PM**
- **SALLY CARLSON RECIPIENT OF SOUTHERN TIER WEST LOCAL GOVERNMENT AWARD 9/15/11 AT HOLIDAY VALLEY**

The Board Members of the Town of North Harmony wished to bring to attention the receipt by the Town Supervisor of the prestigious STW Local Government Award which honors a local government official for their service to their community. *Mrs. Carlson was presented by Frank Stow, Councilman, a bouquet of roses.*

Mr. Whitney read an excerpt of the presentation by Jim Cooper, STW President and Eileen Weishan, STW Community Assistance Specialist which outlined Mrs. Carlson's long years of service to her family, community and local government.

There was a round of applause in honor of Mrs. Carlson's service.

- **PUBLIC COMMENT**

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- **CORRESPONDENCE:**

1. **STW – FALL PLANNING AND ZONING CONFERENCE – Wed., 11/16/11 9:30-3:30 at Chautauqua Suites**
Mrs. Carlson asked if the Town Clerk had sent out the reservation forms.
Mrs. Thomas said the ZBA had received theirs and the Planning Board would get theirs tomorrow night at their meeting.
2. **NYMIR** - **Refund of \$17.60 on Insurance Change (on new excavator)**
- **Rate Reduction: 5% General Liability; 10% Auto Liability**
3. **SOUTHERN TIER INDEPENDENT LIVING CENTER – Immanuel Lutheran Church, 10/29/11, Saturday, 9:00 – 4:00 – How to Respond and include people with disabilities**
4. **NYS – PER CAPITA AID \$11,821.00**
5. **EARL SCHEFFLER – Property Line Question for Brad Lawson**
6. **CHAUTAUQUA CO. ORPS – Offer of Tax Collection Program at No Charge**
7. **ASSOCIATION OF TOWNS - Marcellus Shale Drilling – Local Laws, Litigation 10/17/11, 9:00 – 4:00, Corning, NY**
8. **U.S. DEPARTMENT OF COMMERCE – 2010 CENSUS**
Mrs. Carlson said they are looking for input from the town on their census information. She said the town has not completed their appeal yet.
9. **U.S. SENATOR SCHUMER – COMMUNITY ORIENTED POLICING SERVICES (COPS)**
10. **ASSESSOR – AUGUST SALES**
11. **NEWSLETTERS** - Chautauqua Co. Fire Service
- Waste and Recycling
12. **MORRIS ASSOCIATES OF SALAMANCA – Info regarding consolidation of funding for projects and a request for the town's business**

- **OLD BUSINESS:**

- **HIGHWAY BUILDING PROJECT - Asbestos Quotes (to include Raynor Property - Tolman Letter to Contractors**

Mrs. Carlson said the town had asked for quotes on asbestos identification and received two quotes. She said they are substantially different. She said the quote from Kingsview was for \$2,500 for both properties with no explanation of the procedure they will be using. She said the quote from Chris Stohl of Lakewood was for \$4,025 and he indicates he is a certified asbestos inspector and will take a

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sample of all of the materials and is quite extensive on what he plans to do. She said she feels that since specifics were asked for, she is not comfortable with the quote from Kingsview.

Mr. Lawson said he has worked with both companies and Mr. Stohl is very thorough. He said Mr. Stohl does not test anything that he does not feel is asbestos nor has it in it. He said the testing can be very expensive; anywhere from \$25 to \$75 per sample. He said Kingsview has worked on projects where they have torn something down and he has reviewed the reports. He said they appeared to be fine.

Mr. Sena said Kingsview will not tell the town there is asbestos without having the samples tested and analyzed. He said just because the other company has a three page document stating what they are going to do doesn't mean they will do any better a job.

Mr. Lawson said he feels that it is a very lucrative business and perhaps Mr. Stohl gets more for his expertise. He said the tester cannot do the asbestos removal.

Mr. Stow referred to Department of Labor, Code Rule 56 as it relates to asbestos removal.

Mr. Lawson said as a municipality the town would want to follow Code Rule 56 closely. He said he does not know how many samples each proposed to take.

Mr. Stow asked if the contractor messes up does Code Rule 56 violation fall on the contractor or the town.

Mr. Lawson said anybody can sue anybody. He said you are trusting yourself to the contractor you choose to do business with.

MOTION #137 OF 2011

MR. SENA MOTIONED TO ACCEPT THE QUOTE OF KINGSVIEW PAVING IN THE AMOUNT OF \$2,500.00 FOR THE IDENTIFICATION AND TESTING OF ASBESTOS AT THE EXISTING HIGHWAY BARN AND THE PROPERTY NEXT TO THE COMMUNITY BUILDING (RAYNOR). MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **RAYNOR PROPERTY - SALVAGE**

Mrs. Carlson said the town had not received any bids for salvage on the Raynor property as a result of the legal add run. She said perhaps we should post a notice at Hogan's, The General Store and the local Post Offices after the asbestos study is complete. Mrs. Carlson said there were some people in Ashville who were interested.

Mr. Sena agreed.

Mrs. Thomas said she would take care of the notice after asbestos abatement is complete.

- **TRANSFER STATION – Electioneering – Establish Policy for ALL Users other than Patrons**

Using Transfer Station

- 1) Time
- 2) Purpose
- 3) Permit from Town

Mrs. Carlson said she had received a phone call from the Board of Elections regarding the use of the Transfer Station for electioneering during station hours. She said the BOE had informed her 2 years ago that the use of the transfer station for electioneering was illegal. She said now they claim they did not say that. She said the town has established policy in the past whenever anyone wished to use the station so that we knew who they were and where they would be located.

Mr. Ryan said the BOE had called him 2 years ago and told him it was illegal to use the station for electioneering. He said they had warned him not to politic on any government property.

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Mrs. Carlson said now the BOE states it is the peoples land and they should be able to use it anytime they want. She said the BOE indicated that the town cannot set policy for town land. She said she informed them that officials were elected to set policy for the town. She said the BOE refuses to put into writing that is legal or illegal to use town property for electioneering.

Mrs. Thomas said the BOE response stating it was illegal to use town property for electioneering is recorded in the November 2009 minutes.

Mrs. Carlson said from a liability standpoint, anyone who wishes to use town property (i.e. transfer station, community bldg., etc.) should be required to have a permit from the town stating 1) number of people participating 2) purpose for the use of the property 3) identification of the person in charge 4) designation of the area to be used. She said that way the town would be covered no matter who uses it (Boy Scouts, 4-H, etc.).

MOTION #138 OF 2011

MR. STOW MOTIONED TO ESTABLISH THE FOLLOWING POLICY FOR THE USE OF THE TRANSFER STATION AND COMMUNITY BUILDING. ANY PERSON OR GROUP MUST COMPLETE A WRITTEN PERMIT PROVIDING THE FOLLOWING: 1) NUMBER OF PEOPLE PARTICIPATING; 2) PURPOSE FOR THE USE OF THE PROPERTY 3) IDENTIFICATION OF THE PERSON IN CHARGE 4) DATE AND TIME OF USE. FURTHER THE TOWN WILL DESIGNATE THE AREA THAT MAY BE USED. MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **NEW BUSINESS:**

- **SET DATE FOR BUDGET 2012 PUBLIC HEARING**

- **MOTION #139 OF 2011**

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. WHITNEY THE PUBLIC HEARING ON THE 2012 BUDGET WILL BE HELD ON WEDNESDAY, NOVEMBER 9, 2011, AT 7:00 PM AT THE COMMUNITY BUILDING. THE MOTION WAS CARRIED UNANIMOUSLY.

- **CEMETERIES - Fencing for Wild Rose Cemetery – 400’ from Hadley House**

Mrs. Carlson said the town would like to put in fencing at the rear of Wild Rose Cemetery. She said there is about 234’ of good used fencing available at the old Good Morning Farm/Hadley Bay Restaurant that the new owners are willing to sell to the town.

Mr. Whitney asked what the price is.

Mr. Stow said the 234’ would not be enough to cover the back and sides of the cemetery and he would like to get a cost for the full package. He asked if the town would like to table the matter until the November meeting.

- **MOTION #140 OF 2011**

MR. STOW MOTIONED TO TABLE THE PURCHASE OF FENCING FOR THE WILD ROSE CEMETERY UNTIL A COST FOR THE FENCING CAN BE DETERMINED. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

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- Town Policy for Payment for Services

Mrs. Thomas asked the board to consider a written policy for the payment of cemetery services. She said currently there has been a problem with receiving payment for 2 cremation burials that were done in late May and early June at town cemeteries.

There was discussion as to whether or not a signed document by the service recipient promising payment for the service during a certain period of time would hold up in court.

Mr. Stapleton said if the individual has received the benefit they must pay the established amount and if not he can sue them and get a judgment whether they have signed a document or not.

Mrs. Carlson said she and Mrs. Thomas had discussed simply requiring that services be paid for in advance or at the time of the service.

After further discussion it was determined that payment in advance of the service would be the best method.

Mr. Stapleton said he would be happy to send a letter to the person who has not paid yet.

- **AFLAC COVERAGE FOR ROD ASEL (from Town Contingency Fund)**

Mrs. Carlson said M.E.O. Rod Asel is still recovering from his heart attack and is not expected to be back to work until sometime in November. She said he is in the process of filing for AFLAC and Disability Insurance coverage. She said in order for him to have health insurance and AFLAC coverage the co-pay and premium payments need to be made while he has no income. She asked if town would consider covering those amounts from the Contingency Fund and recoup the amounts when he comes back to work.

Mr. Sena said he had no problem with that.

There was general discussion that the coverage amounts were not very much.

- **MOTION #141 OF 2011**

MR. SENA MOTIONED TO COVER THE AFLAC PREMIUM AND HEALTH INSURANCE CO-PAYMENTS FOR M.E.O. ROD ASEL FOR ONE MONTH. MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mrs. Emick asked if the motion should not include a plan for repayment to the town.

- **MOTION #142 OF 2011 (AMENDING MOTION # OF 2011)**

MR. SENA MOTIONED TO COVER THE AFLAC PREMIUM AND HEALTH INSURANCE CO-PAYMENTS FOR M.E.O. ROD ASEL FOR ONE MONTH WITH THE STIPULATION THAT MR. ASEL WILL PAY BACK THOSE AMOUNTS TO THE TOWN IMMEDIATELY UPON HIS RETURN TO WORK. MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

After the board meeting there was a discussion between the Supervisor and Mr. Stapleton as to the legality under Town Law of using Contingency Funds for payments of this type. It was discussed that another avenue would have to be sought by Mr. Asel to cover his co-pay and premium.

- **FENTON HISTORICAL SOCIETY – GRAVE OF TOWN RESIDENT KILLED IN THE WAR LOCATED IN THE NETHERLANDS (HANSEN)**

Mrs. Carlson said she had been contacted by someone from the Fenton Historical Society about Franklin Hansen's brother who was killed in the war and buried in the Netherlands. She said the Historical Society had informed her that a lady has been tending his grave there for all these years and now her son or grandson is carrying on the tradition in the Netherlands. She said the Fenton representative had asked if

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she would be willing to send a letter of thanks to the lady for her service. She said she would be happy to do that but would also like the town to do something else to thank her for taking care of the grave since the 1940's. Mrs. Carlson said she is meeting with the Fenton Rep tomorrow and asked if the board would consider perhaps having one of the tribute blocks at the park be done in honor of her service and also send her a small gift basket of items unique to the area to express our thanks.

- **MOTION #143 OF 2011**

MR. STOW MOTIONED THAT THE TOWN PURCHASE A TRIBUTE BLOCK FOR THE PARK AND A GIFT BASKET (NOT TO EXCEED \$100) TO BE SENT TO THE LADY IN THE NETHERLANDS IN HONOR OF HER SERVICE IN TAKING CARE OF THE GRAVE (SINCE THE 1940'S) OF LOCAL RESIDENT MR. HANSEN WHO WAS KILLED THERE DURING THE WAR. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **REPORTS:**

JAY GOULD, LEGISLATOR

Mr. Gould said the following occurred in the Legislature during the August meeting:

- There were appointments to various boards
- A lease for the use of the airport restaurant signed
- Authorized Workman's Comp payments (Town of N. Harmony share \$41,643.73)
- Approved Homeland Security Grant \$493,326 to guard borders (local match \$164,442.00)
- Lake Erie Management Commission received \$25,000 in 2% Bed Tax funding

- 2% Grant Funding for 2012 was approved for the following projects: 1) Falconer Village Park 2) Moonbrook stream bank stabilization 3) Goose Creek stream bank stabilization 4) Tinkertown Bay shoreline 5) Finley Lake stream bank stabilization 6) JCC Moonbrook stream bank stabilization.
- 3% Grant Funding for 2012 was approved for the following projects: 1) Lucille Ball Festival 2) Grape Discovery Center 3) Lawson Boating Heritage Center 4) 15th Annual Antique, Classic Boat Show 5) Art in the Woods/Audubon 6) Celtic Festival
- Appointed Cathy Tampio Clerk of the Legislature
- Asked NYS if the County could continue the Bed Tax program

Mr. Gould said the following occurred in the Legislature during the September meeting:

- There were appointments to various boards
- Authorized lease of office space to DSS in Westfield
- Formed a land bank
- Approved \$6,000,000 bond for JCC for dormitory
- **Public hearing for Budget 2012, 10/26/11, 2:00 PM in Legislative Chambers**

Mr. Gould said he spent 4 out of 5 days last week working on the county's budget. He said currently the county rate is \$8.90 per \$1,000 of assessed value and the 2012 amount (subject to change) is \$9.52/\$1,000. He said there are 53 Tuesdays in 2012 and every Tuesday the county sends a check for Medicaid to NYS in the amount of \$625,000.00. He said Senator Young is currently trying to get the 53rd Tuesday amount included in the 2013 Budget which would help reduce the budget further (\$9.45/\$1,000). He said \$1.17 million (last 7 years of receipts for out of county garbage) was taken from the land fill and placed in the General Fund.

- \$200,000.00 was cut from Social Services
- Put off \$250,000.00 payment to "M" fund (owed from when county was self-insured)

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- Took \$1.1 million in interest funds and placed in General Fund. He said they are still \$2,000,000.00 above the 2% tax cap.

Mr. Stow asked how the methane generator at the landfill is working out.

Mr. Gould said pretty well; he said he believes it will generate about \$500,000 in revenue this year. He said the county has been trying to sell the electric to New England in order to receive a better price. He said there are 6 engines now instead of 4.

Mr. Stow asked if there was anything new on the Marcellus Shale drilling.

Mr. Gould said not much. He said the DEC has a proposal for 3 wells in Chautauqua Co. He said here in Chautauqua Co. the shale is only about 20' thick so there is not much call for deep well drilling. He said underneath the Marcellus Shale is the Utica Shale which is very thick and produces a lot of natural gas which may be sought in the future.

GARY RYAN, HIGHWAY SUPERINTENDENT

Mr. Ryan said the highway has been working on the following:

- New box has been installed on truck
- Getting equipment in shape for winter
- Cross pipe project on Erickson Road is completed
- Ditching
- Will be blacktopping on Butts Road and hope to get to the Cheney Pt. project.

HOWARD PEACOCK / EVERETT BENSINK, JUSTICE

Mr. Bensink read the Court Report of the Court Clerk for September, 2011:

<u>September, 2011</u> Fines, Fees, Surcharges: \$31,165.00	New Cases Started: 237	Cases Closed: 262
<u>August, 2011</u> Fines, Fees, Surcharges: \$40,831.00	Town retained: \$17,454.00	
<u>September, 2010</u> Fines, Fees, Surcharges: \$53,499.00	New Cases Started: 369	Cases Closed: 362

Mr. Bensink said he, Mr. Peacock and Mrs. Peacock attended the NYS Magistrates Conference in Niagara Falls in September, 2011. He spoke at length about the meetings and classes they attended and said the training sessions were very informative.

Mrs. Carlson asked if NYS is pushing very hard for court consolidation.

Mr. Bensink said only in the small courts that have very small case loads. He said the magistrates are fighting the consolidation of courts at the county level as well as a proposal that all justices must be lawyers.

All thanked the board for allowing them to attend the conference.

BRAD LAWSON, ZONING CEO (copy of report in Minute Book)

Mr. Lawson said September has been a banner month with 3 new homes started. He said one of the homes (Hanson) will be an \$800,000 or more home. He said he met with the fire commissioners and been through the building on South Maple that they are proposing to purchase. He said they had discussed the fact that it is in a Residential District. He said he had told them they should have come to the town first and he truly believes they could have gotten the building for less than what the county is asking.

Mrs. Carlson asked if he had any idea what it would cost to revamp the building. She said someone was throwing around a figure of \$300,000.00.

Mr. Lawson said he does not have any idea what it would cost.

DAVE LLOYD, STORMWATER PLANNING

Ashville Rain Garden Project:

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Mr. Lloyd said the plants are ordered and will be planted Tuesday by the Master Gardeners and himself. He said the Highway Department will pick up the plants in the morning and bring them to the Ashville site. He said final completion of the project will occur in the spring.

Bly Hill Project:

Mr. Lloyd said the design drawings are complete and the highway has purchased some of the cement blocks for the project. He said the highway will work on the project as soon as all their equipment is ready for winter.

Cheney Creek Project and Stow Ferry Project:

Mr. Lloyd said the clean out and repair work at Cheney Creek and the installation of the DI at Stow Ferry is still on the highway department "to do list".

Demo Projects for 2012:

Mr. Lloyd said the only project we received funding for in 2012 was the Ed Jensen project on Goose Creek. He said he would be somewhat involved but the grant is through Soil and Water.

Mr. Lloyd said the County has some demo project grant monies that have not been used in a long time. He said he has a list of 11-12 demo projects that he is putting together information on. He said when

he has enough material for a presentation he will sit down with Jeff Diers to see which ones might have the best chance of being funded.

NANCY THOMAS, TOWN CLERK (copy of report in Minute Book)

Mrs. Thomas said the Supervisor had received correspondence from Jim Caflisch, Chautauqua Co. ORPS asking towns to come on board with their tax collection program. She said they have offered this program to tax collectors for about 4 years now. She said they completely by-passed the collectors in their communication. She said the letter states their program “literally saves the taxpayers tens of thousands of dollars annually”. She said they indicate they will give the program to the collectors at no cost and state there are 32 collectors using the system in the county. Mrs. Thomas said she has contacted several of the Town Clerks who collect taxes. She said the Town of Chautauqua Clerk/Collector had used the program for one year and had been so dissatisfied she had refused to use it again. The Town of Chautauqua Supervisor had contacted Mr. Caflisch and asked for the names of towns/schools using the program and had been refused that information. She said part of the issue for collectors is that the county has the ability to change the information (\$ amounts paid) in the program and they have done this. Mrs. Thomas said her Williamson Law program currently costs the town \$330.00/year for software updates and support. Mrs. Thomas said the county has not answered to the collector’s satisfaction where the savings are.

MOTION #144 OF 2011

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, 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)

Mrs. Carlson said a Budget work session had been held and there will be no increase to the town tax rate for 2012. She said the town couldn’t reduce the rate because they lost ½ million in assessments during Grievance.

HIGHWAY BUILDING COMMITTEE:

Mr. Stow said they are waiting to meet with the contractor and engineer and there is nothing to report at this time.

MOTION # 145 OF 2011

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

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MOTION #146 OF 2011

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

MOTION #147 OF 2011

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

MOTION #148 OF 2011

ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. STOW THE MEETING WAS ADJOURNED AT 9:25 PM.

Nancy Thomas
Town Clerk