

**TOWN OF NORTH HARMONY
TOWN BOARD MEETING
MONDAY, 7/11/11 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 Louis Rieg, Planning Board; Clayton & Helen Emick; David Stapleton, Attorney; Gary Ryan, Highway Superintendent; Robin Miller, Bookkeeper; Howard Peacock, Justice; Penny Best; Betty Ryan; Brad Lawson, Zoning CEO; Nancy Thomas, Town Clerk

- **PLEDGE**

- **MINUTES**

MOTION #94 OF 2011

ON A MOTION MADE BY MR. MC'NEILL AND SECONDED BY MR. STOW, THE MINUTES OF THE 6/13/11 BOARD MEETING WERE ACCEPTED AS PRESENTED BY THE TOWN CLERK. THE MOTION WAS CARRIED UNANIMOUSLY.

- **ANNOUNCEMENTS:**
ASHVILLE DAY, SATURDAY 7/16/11

Mrs. Thomas gave a brief overview of the activities planned for Ashville Day and encouraged everyone to attend.

- **PUBLIC COMMENT**

- **CORRESPONDENCE:**

Mrs. Carlson said the following correspondence had been received and was available for review.

1. **DAVID GROTH – STORM DRAIN REPLACEMENT WATSON ROAD**

Mrs. Carlson said the town had received a communication from Dave Groth about Cherry Lane (private road) and a deteriorated storm drain located there. Mrs. Carlson said that drain is the only drain for that section of Watson Road. She asked Mr. Stapleton if the town needed an easement agreement in order to address the situation.

Mr. Stapleton said if the town will be going on private land then a permanent easement should be on record and indicated he would like to see the Groth title search and survey. He asked how wide Cherry Lane was and if it was a part of a subdivision map.

Mrs. Carlson said Cherry Lane is 20-30' wide and it is not part of a subdivision map.

Mr. Ryan said he had looked at the situation and the pipe is collapsed. He asked who owned or was responsible for the trees located there and said if they dig it will probably kill the roots of some large trees.

Mr. Stapleton said the title needed to be reviewed and an agreement should be made with residents as to who would be responsible for removal of any trees that might die due to the work.

Mrs. Carlson said the trees are very large and certainly add to the uniqueness of the area.

TOWN BOARD

7/11/11 (Pg. 2)

2. NYS DEC – TRANSFER STATION INSPECTION

Mrs. Carlson said the report indicated that litter on the ground needed to be picked up, but otherwise the station was found to be in good shape.

3. CLMC – SIGNING CEREMONY FOR COMPACT

4. E & M – PRIORITIZING INFRASTRUCTURE LONG TERM

5. OFFICE OF EMERGENCY MANAGEMENT – HAZARD MITIGATION PLAN

Mrs. Carlson said the town needed to prepare a new Hazard Mitigation plan as ours runs out on June 28, 2012.

6. TIME WARNER CABLE

A list of possible channel cancellations and channel number changes was provided.

7. CHAUT. CO. DPF – RESTRICTED HIGHWAY CO. RT. 35

Mrs. Carlson said Bridge number 1018 on County Route 35, Niobe Watts Flats Road between Button Valley and Washington Street will be closed for work for about 3 months.

8. MINUTES OF THE BUSTI ZONING BOARD OF APPEALS – Goose Creek Corp.

Application

Mr. Stapleton said based on the referral from the Town Board the Goose Creek Corp. made application to the North Harmony and Busti ZBA for area variance approval on substandard lot sizes. He said both boards met on the same night 6/22/11. He said the Busti minutes indicated that they had reviewed the request for an area variance to subdivide 3 lots on the Manguso survey and approved the area variance. He said that same evening our ZBA discussed all the history of the application and a motion was made and carried unanimously to accept the subdivision plat and request for area variance with the following conditions:

- (1) All minutes, correspondence and agreements of Town Board and Planning Board prior meetings be made part of the record for this application and be adhered to.
- (2) Conditions of the Resolution of the Town Board at the 6/13/11 board meeting be adhered to and become part of the record.
- (3) The applicants allow access to the Town of North Harmony Building Inspector and Assessor for performance of their professional functions.
- (4) The access road to all dwellings be maintained year round (including snow plowing) for open access to any vehicles that may require access.

Mr. Stapleton said he had been in contact with the Goose Creek Corp. attorney Pat Stafford, regarding the creation of the declaration of restrictive covenants. He said they are hoping that they will have a draft ready within a few weeks.

9. NEW YORK STATE DEC – CLEAN AIR GRANTS AVAILABLE FOR \$5,000

Mrs. Carlson said the grants can be used for a variety of things including education about outdoor burning; health and safety; and safer ways to dispose of organic materials. She said also available are grants to purchase equipment to manage organic waste including leaf vacuum equipment; chippers/shredders and specialized composting equipment. She asked for authorization to contact the leaf vacuum companies to provide alternatives to burning and raking leaves into ditches and the lake. She said the one looked at previously was \$18,000.

TOWN BOARD

7/11/11 (Pg. 3)

Mr. Lawson asked if it was feasible to subcontract out that type of work. He said he would contact Signature Paving.

Mr. Ryan said the highway was currently busy with a lot of projects.

Mr. Sena asked if Mr. Yates would take the leaves. Mrs. Miller replied that she would take them.

Mrs. Carlson said that was good, but who would transport them?

Mrs. Thomas noted that Mr. Yates has taken them in the past but the person had to take them to him.

Mrs. Emick said if you did something like a leaf pickup people would need to be advised on the dates and times of pick up.

Mrs. Carlson said an alternative needs to be sought.

Mr. Sena said people are bringing them to Butts Park to the brush dump.

Mrs. Carlson said she thought the gate was locked. She said if leaves and brush are allowed to be dumped there, someone should be present to monitor so that construction waste, etc. is not allowed.

Mr. Ryan said the leaves could be pushed back with a loader at the dump.

10. CHAUTAUQUA CO. DEPT. OF INSURANCE- WORKMAN'S COMP – DARIN SHULZ

Mrs. Carlson said she has received a letter notifying us that our municipal charge for workman's compensation for 2012 will be \$41,643.73. Last year's charge was \$29,810.00. Mr. Schulz indicated this increase is due to a few very large claims. She noted that this cost is a separate line item on the tax bill and is a charge back.

11. CHAUTAUQUA COUNTY – BLY HILL PROJECT AGREEMENT RECEIVED

- OLD BUSINESS:

- HIGHWAY BUILDING PROJECT

Mr. Stow said Rex Tolman had dropped off revised drawings for the project at the office today. He said the sewer system has been moved and Mr. Ryan will call regarding the digging for perk holes and mark them.

Mrs. Carlson said she had a conversation with Mr. Tolman and he had suggested that they be authorized to go ahead with the request for bid and add any addendums as necessary due to the shortness of the construction season available at this time.

Mr. Sena said the revised project packet would need to be reviewed very quickly by all board members.

MOTION #95 OF 2011

MR. WHITNEY MOTIONED TO AUTHORIZE A LEGAL NOTICE FOR BIDS FOR THE HIGHWAY BUILDING PROJECT WITH THE STIPULATION THAT ADENDUMS TO THE BID MAY BE ADDED AS NECESSARY. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- BOCES PROJECT – LIGHTING PROBLEM AT SUNRISE COVE

Mrs. Carlson said Mr. Rieg had provided her a copy of the letter from St. George who has been working with Jake Alienallo, Dr. Geleil, Mr. Rieg of the Sunrise Cove Home Owners Association and Craig Marker of Marker Electric to try and come up with an agreement to get the work on the lighting problem in Sunrise Cove done.

Mr. Rieg said the lighting problem has been in existence since the end of November, 2010. He said it was created by the contractor digging lines for the BOCES sewer connection. He said 3 posts with 7 entry

TOWN BOARD
7/11/11 (Pg. 4)

lights went out. He said the electrician had tried twice and failed to permanently correct the problem. He said they had met with St. George and an agreement had been reached that the homeowners association, the developer and Dr. Galiel would handle the bill for the electrician, conduit, wiring, switch boxes and seeding the trenched area.

Mr. Rieg said the corrective work was scheduled to be done this week.

MOTION #96 OF 2011

MR. SENA MOTIONED TO MAKE FINAL CONTRACTUAL PAYMENT TO ST. GEORGE CONSTRUCTION FOR WORK DONE ON THE SUNRISE COVE/BOCES SEWER PROJECT UPON CONFIRMATION FROM MR. RIEG THAT ELECTRICAL ISSUES RESULTING FROM THE INITIAL WORK ARE RESOLVED. MR MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- ART'S BOOK – A FERRY TALE

Mrs. Carlson said Mrs. Best indicated that over the weekend there were 80 copies of the book sold. She said she had read an article in the Chautauqua STAR indicating that they were planning to publish a chapter per week of the book. She said she had contacted the editor and indicated that it was not appropriate since the town just had the book published and it was copyrighted. She said she had advised the editor if he wished to do small excerpts from the book that might be possible. She asked if Mr. Stapleton would send a letter to reiterate the town's position on the issue.

Mr. Sena said to do something like that the STAR would require the entire board's approval.

Mr. Stapleton said he would draft a letter for town approval as quickly as possible.

- RAYNOR PROPERTY NEXT DOOR – 3459 OLD BRIDGE ROAD

Solicit Salvage Bids (windows, doors, siding, copper pipe, etc.)

Mrs. Carlson said there were some salvageable items at the property and Mr. Sena had suggested putting it out for bid.

Mr. Sena said perhaps a small add in the newspaper so that the materials might be used by someone rather than winding up in the landfill. He said the town would have to make sure that whoever got those rights had some type of liability insurance. He said he would write something up.

Mrs. Carlson said she knew someone who might be interested in the windows.

MOTION #97 OF 2011

MR. SENA MOTIONED TO ADVERTISE FOR SALVAGE RIGHTS TO THE RAYNOR PROPERTY AS SOON AS THE TRANSFER FROM THE COUNTY TO THE TOWN IS COMPLETE.

Discussion:

Mr. Gould said the legislation had been passed and the town should be receiving a quit claim deed at some point.

Mr. Stow said the property should be included on the town's insurance before any work was done and it should be determined that the electric service is terminated.

There was discussion as to whether or not the electric was live.

Mrs. Miller said she would contact National Grid for an inspection on the electric meter.

Mrs. Carlson said she would contact the town's insurance agent.

MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

TOWN BOARD

7/11/11 (Pg. 5)

• **PROPERTY TO TIM RICE - \$500 DEPOSIT**

Mrs. Carlson said she had received a \$500 deposit from Mr. Rice for the small section of road ROW that he wanted on the other side of the creek. She said she would contact Pat Rice regarding the excavation.

• **INTERVIEW FOR VACANCY ON PLANNING BOARD**

Mrs. Carlson said 5 people have indicated an interest in the Planning Board vacancy. *After discussion it was determined that a Tuesday date would be best for the interviews and the board members will check their calendars.*

• **TIMBERCREEK ROAD**

Mr. Ryan said after reviewing the maps it appears that the road in Loomis Bay is a town road. He said he has ordered a sign but needs to have the sign put up by the resident living on the corner “private road” removed.

Mrs. Thomas said she would try to find out the property owner and ask about removal of the sign.

• **BLY HILL DITCH PROJECT (BED TAX GRANT)**

Mrs. Carlson said the town has received the signed copy of the agreement.

• **CLAYTON EMICK’S LIST OF QUESTIONS 6/13/11 (see 6/13/11 minutes for questions)**

Mrs. Carlson said she had completed her list of answers to the 12 questions submitted by Mr. Emick and would give him a copy of them. She said she would like to limit the time on the answers to no more than 10 minutes.

Responses:

1.(a) Rental property was incidental to the purchase of the land. It was not the intention of the town to become landlords. It did seem advisable to rent it out rather than just tearing down the structure. It had been inhabited up to the sale and there was nothing required to rent it other than advertising.

(b) The property was purchased in 2005 and has been rented since January, 2006 to the same tenants for \$400/month.

2.(a) No (b) The tenant pays the utility bills and the town pays taxes on the house and one acre. There has been very little expenditure on the property other than a new furnace recently.

3.(a) Since inception (b) No (c) answer provided previously

4. **Property comparison:**

332.002-6.1	Miller (50.5 acres)	80,000	166,300	
332.00-2-10	Sena (1 acre)	12,000	60,000	62,200
332.00-2-11	Town of N. Harmony (13.2 acre)	46,700	120,000	124,000
332.00-2-17	Hogan’s Hut (1 acre)	27,000		28,000

5. **Information provided previously by Mrs. Miller.**

6. None

7.(a) Regner property assessed value is \$19,897 – vacant land. (b) No taxes paid (c) Site was purchased for a possible lake museum and general cleanup of neighborhood was objective.

8. Property next door purchased for expansion of building and court. Septic and well are on creek end of building and if town/court is to stay here, expansion must be to rear or side. Land will ultimately be tax exempt, but not until 3/2012.

9. **No #9. Listed**

10. The Lighthouse Park was given to the town by the county as a park. It MUST be used as a park and town cannot sell. It provides town residents access to the lake which was previously unavailable. MANY of

TOWN BOARD

7/11/11 (Pg. 6)

our residents cannot afford the cost of lakefront property, but would like to be able to fish and relax near the lake. The Lighthouse Park provides that. The town was fortunate enough to receive a grant for \$70,000 to renovate the pavilion, put in sidewalks and the dock.

11.(a) The cost of the building will determine if the town has enough cash available for the new highway building. It depends on what the bids received are for the building and what percentage of the unexpended balance used is. Mrs. Carlson said she does not want to leave the town funds short and would prefer to bond some if necessary. **(b)** Since 1991

12.(a) Currently the General Fund carryover is \$876,988; Highway Fund carryover is \$263,203. **(b)** At current bank rate. We are restricted to what type of investment options we have because we are a municipality and must use commercial banking to protect funds.

Mrs. Carlson said those were her answers and asked if any board members had anything they wished to add. She asked Mr. Emick if he had any questions.

Mr. Emick said it is very interesting that the town has that much carryover balance.

Mrs. Carlson said the town has been saving these funds since 1991.

Mr. Emick asked if with the 2% property tax cap the town anticipated having real estate property taxes increase to that extent this year.

Mrs. Carlson said she does not anticipate that the town's rate will increase this year. She said she has no control over the county rate.

Mr. Emick asked what the other board members thought.

Mr. Whitney said that he agreed with Mrs. Carlson's answers.

Mr. Stow said that the rental of the Mitchell property has been a way to recover some of the funds spent on it. He said it was never intended to be a moneymaking proposition but it did not seem wise to leave a perfectly good home vacant as they quickly deteriorate.

Mr. Whitney said initially the property had been bought in order to build a new town hall but things have gone in a different direction and in order to save money the property next door was purchased so the existing building can be built onto.

Mr. Emick asked why the town needed a separate town hall area, highway building and fire department.

Mr. Lawson said the town had approached the fire department about combining the town hall with their building and the department did not want to get involved. He said there was also a lot of negative response to building a new town hall.

Mrs. Carlson said the Mitchell property is unique in the fact that it is adjacent to the highway property and it fronts on two roads. She said it was a good investment for the town to be able to use the highway property differently. She said a "Main Street" concept had been considered if the sewer in connection with the hotel had gone through. She said if you check the Planning Board Survey one of the most approved concepts is green space, especially near expressways. She said for the time being she still feels it is a good investment for the town.

Mr. Emick said it just appears that they are being socked with higher taxes and they are looking for ways to save as many dollars as possible. He said some of the items dollar amounts are huge.

Mrs. Carlson said not from the town.

Mr. Emick said the lakefront owners are probably paying 25% of the expenses of the town.

Mr. Stow said didn't he think they should based on their assessment.

Mr. Emick said it was fairly assessed.

Mr. Stow said everybody pays the same rate and it is not the town tax rate that is unstable. He said the unfunded state mandates are driving up the rates. He said there are very few towns with lower rates than North Harmony. He said there is no guarantee that the tax cap will not go over 2%.

TOWN BOARD

7/11/11 (Pg. 7)

Mr. Gould said NYS passed the 2% tax cap rate or the cost of living but a 60% vote of the governing body will override that. He said that is 16 out of the 25 members of the legislature.

There was further general discussion of the issue at the county level.

Mrs. Best noted that all the people along the lake who chose to purchase where they purchase have higher taxes on their property, but they also have access to high speed internet, cable, natural gas lines and other amenities that those in the “back forty” who also pay their fair share of taxes do not have. She said she lives on a county road and the town does not even have to plow her road.

Mr. Sena said he supported the town’s decisions on the properties that have been purchased.

Mr. Stapleton said you really don’t know how good you have it in North Harmony until you look at places like Jamestown and Dunkirk that are at about \$50 per \$1,000 tax rate.

- **NEW BUSINESS:**

- **EVERETT BENSINK – REQUEST TO ATTEND MAGISTRATES CONFERENCE**

MOTION #98 OF 2011

MR. MCNEILL MOTIONED TO AUTHORIZE JUSTICES TO ATTEND THE ANNUAL MAGISTRATES CONFERENCE IN NIAGARA FALLS 9/25-28/2011, AT A COST OF \$560.00 EACH. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **REPORTS:**

JAY GOULD, LEGISLATOR

Mr. Gould said the following had occurred at the June Legislative meeting:

- A commendation for Jon Strickland – State High Jump Champion
- Local Law reducing Legislature from 25 to 19 (will be on November ballot)
- Bridge painting grant \$300,000 (80% federal / 20% local)
- Authorized grant application and agreement with NYS for a Household Hazardous Waste Program (50% state / 50% local)
- Green Energy Funding - \$25 per megawatt for 16,836 hours for 10 years (renewable production grant) for methane to electric at land fill
- Hazardous Materials grant \$72,850 for Chautauqua, Cattaraugus, Allegheny and Seneca Nation for purchase of equipment for courier terrorism
- FEMA Grant 100% federally funded to train front line fire fighters 7/10/11 – 7/9/15
- List of recipients for 3% Bed Tax
- July meeting of Legislature will be at Clarion Hotel in Dunkirk
- Authorized issuance of \$6,500,000 bond for JCC dormitory
- Raynor property transfer to the town was approved

RANDALL HOLCOMB, ASSESSOR – RESULTS OF GRIEVANCE

Mrs. Thomas said that the results of May Grievance (11 cases) was a reduction in tax assessment of \$537,500.00.

GARY RYAN, HIGHWAY SUPERINTENDENT

Mr. Ryan said the highway department had black topped the parking lot at the Lighthouse Park;

TOWN BOARD
7/11/11 (Pg. 8)

replaced some pipe; and re-profiled Eggleston Hill Road. He said R.O. Proper & Son has gone out of business and they will go with NOCO for fuel.

Mr. Stow noted that the symbols on the tanks need to be updated for content at the Highway Building.

Mr. Ryan said he does not whose responsibility the symbols are, but he would ask for new ones from NOCO.

HOWARD PEACOCK, JUSTICE

Mr. Peacock said \$25,707.50 in fines, fees, and surcharges was collected by the Court and given to the Supervisor for the court cases reported to the Comptroller for June, 2011. 294 new cases were started and 215 cases were closed in June, 2011. Last year \$35,671.00 was collected; 243 cases started; 260 cases closed. Of the \$30,400.00 collected in May, 2011, the town retained \$11,360.00.

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

Mr. Lawson spoke briefly about the new requirement for fireworks permits and also reviewed his report.

DAVE LLOYD – STORMWATER PLANNING

Mrs. Thomas gave Mr. Lloyd's report as he was unable to attend the meeting.

WATER GARDEN PROJECT

I have had meetings with Tri-James and Rob Yates to look over and discuss top dirt and mulch for the water garden. Mr. Yates mix is more to the liking of the pro's and the cost is less. I have a meeting 7/12/11 with Mr. Yates and Ms. Bergeson from Master Gardener's to pick out the type of mulch we would like to use. Dig Safely has been contacted to mark any lines we need to know about. Our plants have been picked out and we can start as soon as a date is set.

CHENEY CREEK PROJECT

The permit to clean out the dam area has been made out and sent in by Soil and Water. As soon as we can clean this out with a road way built down in for town equipment, we will do our plantings.

STOW FERRY DRAINAGE PROJECT

I spent a day with the highway crew at the Ferry Parking area. A new deep well DI was placed in the parking lot for a filter system which the highway now has and will install soon.

BLY HILL PROJECT

We have a signed contract with the county as of 7/1/11. Tolman Engineering has been informed and is working on the design.

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

Mrs. Thomas said she had sent a letter to Andrew Akin, BSA Troop #126 thanking him for his community service work at Butts Park. She noted that both Troops #141 and #126 have really become involved with town projects in the last few years and done a wonderful job.

MOTION #99 OF 2011

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

TOWN BOARD

7/11/11 (Pg. 9)

Mrs. Carlson commented that the painting done at Lighthouse Park looked really nice and the sign turned out beautifully.

MOTION #100 OF 2011

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

MOTION #101 OF 2011

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

MOTION #102 OF 2011

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

Mrs. Thomas said she would like to say thank you to Mrs. Carlson, Mrs. Miller, Mrs. Best and everyone who had worked so very hard to make the Ferry Bicentennial such a success.

MOTION #103 OF 2011

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA THE MEETING WAS ADJOURNED AT 9:32 PM.

Nancy M. Thomas
Town Clerk