

**TOWN OF NORTH HARMONY
PUBLIC HEARING LOCAL LAW NO. 4-2012
SECTION 639 – PORTABLE TOILET AND PRIVY MANAGEMENT
MONDAY, 12/10/12 7:00 PM**

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

OTHERS PRESENT: Dan Strickland, Highway Sup't.; Dave Stapleton, Attorney; Dave Lloyd, Stormwater Planner; Brad Lawson, Zoning CEO; Robin Miller, Bookkeeper; Louis Rieg, Planning Board; Louise Ortman, Zoning Board; Remington Whitcomb, P.J.; Nancy Thomas, Town Clerk

Mrs. Carlson opened the Public Hearing at 7:00 PM.

- **MOTION # 159 OF 2012**

MR. SENA MOTIONED THAT THE TOWN BOARD TAKE LEAD AGENCY STATUS ON THE SEQRA FOR PROPOSED LOCAL LAW NO. 4-2012, AMENDING THE ZONING ORDINANCE TO INCLUDE NEW SECTION 639 – PORTABLE TOILET AND PRIVY MANAGEMENT. MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Stapleton reviewed the Long Form SEQR Part I and Part II in its entirety. He stated that the town had submitted a Municipal Zoning Referral form to the Chautauqua County Planning Department for review and recommendation. The Planning Department advised on 12/3/12, that the proposed action would have no significant county-wide or inter-community impact and that the proposal would be a matter of local concern. **Mr. Stapleton** asked the board to identify anything they felt should be corrected or changed. The board responded there were no changes. He said since no negative impacts were identified the board might at this time wish to make their determination of significance on the proposed Local Law.

Mrs. Carlson asked if anyone wished to speak regarding the Local Law. None responded.

- **MOTION # 160 OF 2012**

MR. WHITNEY MOTIONED FOR A NEGATIVE DECLARATION OF IMPACT ON THE SEQR FOR LOCAL LAW NO. 4-2012, AMENDING THE ZONING ORDINANCE TO INCLUDE NEW SECTION 639 – PORTABLE TOILET AND PRIVY MANAGEMENT. MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Mrs. Carlson closed the hearing at 7:20 PM.

*Nancy Thomas
Town Clerk*

**TOWN OF NORTH HARMONY
BOARD MEETING
MONDAY, 12/10/12 7:00 PM**

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

OTHERS PRESENT: Dan Strickland, Highway Sup't.; Dave Stapleton, Attorney; Dave Lloyd, Stormwater Planner; Brad Lawson, Zoning CEO; Robin Miller, Bookkeeper; Louis Rieg, Planning Board; Louise Ortman, Zoning Board; Remington Whitcomb, P.J.; Nancy Thomas, Town Clerk

- **LIGHTING OF HOSPICE TREE....6:50 PM**

The Town held a brief Hospice Memorial Tree Lighting Ceremony led by Megan D'Angelo of Chautauqua County Hospice prior to the Public Hearing. Special thanks were given to Art Sample's Trees and Shrubs for providing the Memorial Tree; the Town Highway Department for planting the tree; and Frank Stow for helping decorate it. Loved ones were remembered and honored by the placement of red bows on the tree. If anyone is interested in participating in the Town of North Harmony Memorial Hospice Tree by purchasing a red bow, please contact Town Clerk Nancy Thomas at 789-3445 x2 for more information.

- **PLEDGE**

- **SEQRA / PUBLIC HEARING PRIVY LAW**

- **MINUTES 10/30/12 AND 11/12/12**

- **MOTION # 161 OF 2012**

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE MINUTES OF THE 10/30/12 BUDGET HEARING AND 11/12/12 BOARD MEETING WERE ACCEPTED AS PRESENTED BY THE TOWN CLERK, UNANIMOUSLY.

- **PUBLIC COMMENT:**

- **ANNOUNCEMENTS:**

- Election of Fire District Commissioners Tues. 12/11/12, 6-9:00 PM at Fire Hall
- Public Hearing on SAV (Submerged Aquatic Vegetation) Plan Wed. 12/12/12, 5:00 PM BOCES

- **CORRESPONDENCE:**

1. **CHAUTAUQUA CO. DEPT OF FINANCE – QUARTERLY SALES TAX \$161,354.17**
Quarterly up \$23,061.68 / Yearly total up \$16,094.63 / Total to date \$585,190.03
2. **CHAUT. CO. PLANNING – Draft Environmental Impact Statement for SAV Plan**
3. **TIME WARNER – Franchise Fees year to date \$4,908.96 and Programming Announcements**
TOWN BOARD
12/10/12 (Pg. 2)
4. **HOARDING COALITION MEETING**
5. **PIGGYBACK LAW**
6. **ACCEPTING BIDS FROM OTHER STATE/FEDERAL AGENCIES**
7. **MORTGAGE TAX RECEIVED \$21,047.56 / Year Total \$41,710.67 / Up \$13,231 from 2011**
8. **OCTOBER ASSESSOR PROPERTY TRANSFERS (Overall loss of 5% on Oct. Assessment)**

- **OLD BUSINESS:**

- **NEW HIGHWAY BUILDING – ADDITIONAL ITEMS THAT ARE BEING PURCHASED**
Door Opener \$1,000-\$1,600; Steam Jenny \$3,000; Office Supplies \$2,000; Compressor \$3,500;
Materials Chautauqua Brick \$1,000; Door Upstairs \$1,250

Mr. Strickland said the Highway Dept. is almost moved in to the new building but not fully functional yet. He said the purchases listed above are very close numbers wise. He said the water there has a lot of rust which leaves stains. There was discussion of ways to take care of this including shocking with bleach, installing a water softener, etc. **Mr. Strickland** said he has purchased a used Toyota fork lift truck for \$9,800.00 for use in the shop.

Mr. Stow said if you use bleach to shock the well you need to make sure to dilute it so it does not damage the well casing. He also suggested they look into fork lift training requirements and be sure that proper certifications for all operators are kept on file.

Mr. Strickland said Tom Johnson from the county would probably help with fork lift certification and the employees would receive a card.

Mrs. Carlson asked **Mr. Strickland** to make sure he gets a list signed by the employees that they have had the training so it can be placed on file at the community building.

Mr. Whitney asked what would be done with the old highway office furniture.

Mr. Strickland said the old furniture is in pretty bad shape.

Mr. Sena asked about the old compressor.

Mr. Strickland said they could probably clean it up and sell it. He said they will probably scrap a lot of what is left in the building. He said the board should come and take a look at what is left to determine what to do with it.

- **ASBESTOS BID FOR OLD HIGHWAY BUILDING**

Mrs. Carlson said Stohl (low bid) had been contacted and they indicated that they did have Workman's Comp. insurance. She said we had not advertised for re-bid because the superintendent had indicated there was no great urgency on the project.

Mr. Sena said he had reviewed all the bids received and although Kingsview had submitted the lowest bid, they were several days late with it. He said Stohl was the only company that had provided all the paperwork requested in the bid. He said it is up to the board to decide if they will reject all bids and re-bid the project. He said we could save over \$3,000.00 if we re-bid. He said there has been some contention with Kingsview, but having a third party doing the air monitoring should alleviate any concerns.

Mr. Whitney said since the bid legal indicates the town reserves the right to accept or reject any or all bids, we should reject and re-bid the project.

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Mr. Sena said technically we would have to reject Kingsviews bid as it was submitted after the deadline.

- **MOTION # 162 OF 2012**

MR. WHITNEY MOTIONED TO REJECT ALL BIDS RECEIVED FOR THE REMOVAL AND DISPOSAL OF ASBESTOS AT THE OLD HIGHWAY BUILDING AND TO AUTHORIZE THE TOWN CLERK TO INITIATE A LEGAL NOTICE TO RE-BID THE PROJECT REQUESTING SEALED BIDS TO BE OPENED THURSDAY, 1/10/13 AT 11:00 AM. MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

There was discussion of the requirement for air monitoring by a third party.

Mr. Lawson said he thought that since the report indicated the material was non-friable, he did not believe air monitoring was necessary.

Mr. Sena said all the previous bids indicated that air quality monitoring was required.

Mr. Lawson said he would investigate the matter if we could supply him with the report and advise on what is necessary. He said the first place to check would be with the Department of Labor.

Mr. Strickland said the highway will eventually need to dig a trench and run a power line to the cold storage building from the new building which will be an additional cost. He said currently the power to the cold storage comes from the old building.

Mr. Stow asked if the alarm system at the new building has been tested and documented.

Mr. Strickland said it has been tested over the cell lines. He said DFT still has to come and hook it up now that the phone lines are in.

Mrs. Carlson said her phone does not work if the power is down.

Mr. Strickland said he is waiting for bids for the phone system.

Subsequent to the board meeting Mr. Lawson provided parameters for air quality monitoring which are based on the size of the project and it was determined that the town will need to hire a third party air quality monitor. The Town Clerk contacted Neeson Clark who performed the initial survey and was given further information about the process. They indicate that the air quality monitor must test one day prior to the start of the removal; again the day of the removal and a day after the removal of the asbestos containing material. Neeson Clark's rate is \$550.00 per day to provide air sampler and project monitor.

- **2013 BUDGET REARRANGEMENT OF NUMBERS**

Mrs. Carlson said we had received an e-mail from the county concerning the arrangement of the numbers in the budget which were re-arranged to satisfy them. She said we had the Workman's Comp listed under the Highway portion of the budget and the county insisted that we must put it in the General Fund, but after conversations with the State Comptroller's office it was determined that we could in fact put it under the Highway. The word "Revenues" was removed from Special Districts.

- **CEMETERY STUMP REMOVAL**

Mr. Stow said stumps have been removed at the following locations: Maple Grove (2); Wild Rose (1); Bly Hill (2); and Veteran's Park (1). He said Jack Knowlton will clean them up in the spring.

- **HOSPICE TREE OF LIFE (discussed earlier in the meeting)**

- **NEW BUSINESS:**

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- **NO PARKING ON BROOK STREET – (On side in front of Angeletti's to corner and Stoneledge to corner)**

Mr. Angeletti asked if no parking signs could be placed on the side of Brook Street where Pearl Lewis lives because of the congestion on Ashville Day and concerns about emergency access.

Mr. Sena said it would seem to be a better idea to put up something temporary for Ashville Day (i.e. cones; tape; barrels) because it is only an issue during the fireworks.

Mr. Strickland said he would figure out something temporary to do on that day to alleviate the situation.

- **SET DATE FOR YEAR END MEETING**

Mrs. Miller advised that all vouchers for 2012 must be received in her office no later than 10:00 AM on 12/27/12.

- **MOTION # 163 OF 2012**

MR. MCNEILL MOTIONED TO HOLD THE 2012 YEAR END BOARD MEETING ON THURSDAY 12/27/12 AT 12:00 PM. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **LOCAL LAW NO. 4-2012**

- **MOTION # 164 OF 2012**

MR. SENA MOTIONED TO ADOPT THE FOLLOWING LOCAL LAW NO. 4-2012 AMENDING THE ZONING ORDINANCE TO INCLUDE SECTION 639 – PORTABLE TOILET AND PRIVY MANAGEMENT. MR. MCNEILL SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

Local Law No. 4 - 2012

Section 639 – Portable Toilet and Privy Management

A. Purpose – To manage the construction, placement, maintenance and duration of use of portable toilets and privies in a manner that minimizes the potential negative impacts on adjacent properties, drinking water systems and watercourses related to odors and health impacts associated with facilities of this nature.

B. Conditions –

1.) Location:

a.) No privy will be allowed to be constructed within the Conservation (C), Tourist-Commercial (TC-1, TC-2, TC-3 & TC-4), Commercial (C-1), Residential (R-1, R-2, R-3, R-4 & R-5) or Industrial (I-1) Districts.

b.) A privy may be constructed in the Agriculture-Residential (AR) and Agricultural (A) Districts if constructed in accordance with the New York State Health Department’s Design Handbook and permitted by the Chautauqua County Department of Health.

c.) Portable toilets, as defined herein, may be used in any district if such units meet the conditions of use specified in this section of the North Harmony Zoning Law.

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2.) Placement:

a.) No privy or portable toilet shall be constructed or placed within a 100-year flood zone.

b.) No vault style privy or portable toilet shall be constructed or placed within 50 feet of a stream, lake or other watercourse. No seepage pit privy shall be constructed within 100 feet of a stream, lake or other watercourse.

c.) All portable toilets shall comply with applicable district set back requirements for accessory buildings.

3.) Maintenance:

a.) Privies and portable toilets shall be constructed and maintained in a clean condition so that insects and rodents cannot enter the vault.

b.) At a minimum, privies shall be pumped out when the vault or pit reaches a level of 18” from the top.

c.) Portable toilet(s) must be in good working condition without any broken surfaces or leaks. Doors must be in good working condition and must be able to be securely latched while in use.

d.) Portable toilet(s) must be monitored *and under contract to be serviced by a licensed disposal contractor on a weekly basis or if the holding tank becomes full during the period of use.*

4.) Duration of Use:

a.) A maximum of one portable toilet may be placed on any premise within a Residential District (R-1 to R-5) for no longer than 96 hours in any one (1) year.

b.) Portable toilet(s) may be placed at sites or facilities not permanently inhabited within the Industrial (I-1), Commercial (C-1), Tourist Commercial (TC-1, TC-2, TC-3 & TC-4) & Conservation Districts for temporary use for special events for a period not to exceed 96 hours per event.

5.) Exceptions:

a.) One portable toilet may be placed upon a premise in a Residential District (R-1 to R-5) for longer than 96 hours in any one year *with the administrative approval of the North Harmony Code Enforcement Officer (CEO). This approval may occur after the CEO conducts a review of the proposed site plan layout, including the relationship of the portable toilet to any shoreline, streambank or structures on the premises or adjacent properties, and the submission of written proof of a service contract with a licensed disposal contractor to provide periodic inspections and pump outs as necessary.*

b.) Portable toilet(s) may be placed at sites or facilities not permanently inhabited within the Industrial (I-1), Commercial (C-1), Tourist Commercial (TC-1, TC-2, TC-3 & TC-4) & Conservation Districts for a period exceeding 96 hours per event with a special use permit, site plan approval and written proof of a service contract with a licensed disposal contractor to provide periodic inspections and pump outs as necessary.

c.) Portable toilets for construction sites with valid building permits from the Town of North Harmony; *active commercial farms requiring portable toilets for farm help*; and Public Parks are exempt from the requirements of this section of the Town of North Harmony Zoning Law.

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6.) *Pre-Existing Portable Toilets and Privies*

a.) Existing portable toilets and privies, which do not conform to this new section, may be continued and maintained for a period up to six months, but shall not be moved, replaced or altered in any way except for in conformance with this section. Six months from the issuance date of this law all portable toilets and privies must be brought into compliance with this section or removed.

Additional Definitions

Privy - any permanent or semi-permanent facility or structure, with a separate pit or vault located below the unit, provided for the storage or deposit of human excreta without water carriage.

Portable Toilet – any commercially manufactured or assembled completely self-contained plastic or fiberglass toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection *and is serviced and leased from a licensed commercial disposal contractor.*

- **STOW POST OFFICE HOURS**

Mr. Sena reported that the U.S. Postal Service has recently made the decision to close or reduce hours on many rural Post Offices. He said there had been a meeting at the Senior Citizens hosted by the USPS to discuss the Stow Post Office. The Stow Post Office hours will be reduced and hours of operation will be 9 AM – 1 PM Mon. thru Fri. and 10 AM – 12 PM on Sat. No start date for this has been established because some of the offices will require work be done so that the lobbies can remain open and secure for public use during regular working hours. Most probably the change will take place at the end of 2013. Items in the mailbox out front will still be picked up at 4:55 PM daily.

Mrs. Carlson said their representative at the meeting was unable to answer if the hours would be extended during the summer when the population increases.

- **REPORTS:**

RANDY HOLCOMB, ASSESSOR

Mr. Holcomb's report indicated they are continuing with revaluation and data collection for new construction. He indicated they have forwarded the assessment roll to the county for calculation of tax rates.

He also indicated that Enhanced STAR exemption renewals will be mailed to those eligible during the first week of January, 2013. Filing date for all exemptions is March 1, 2013.

DAN STRICKLAND, HIGHWAY SUPERINTENDENT

Mr. Strickland indicated that the one ton truck that was purchased is ready for use.

EVERETT BENSINK, JUSTICE (copy of report in minute book)

Mr. Bensink read the Justice Report into the record. He indicated that the reason for the increase in fines and fees collected is that Mrs. Stow has found time to issue quite a few scofflaws notices.

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

Mr. Lawson gave an overview of his report. He said the Planning Board will be talking to Mr. Potter on the Bootey Bay Project tomorrow evening and has some new materials to present. He said there will be no ZBA Hearing this month as there are no cases to be heard. He indicated that there will be some work done on two cell towers in the area related to the new 4G access that require no special permitting.

Mrs. Carlson asked what type of permitting will be required for the proposed helipad at the Fire Department.

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Mr. Lawson said they will need to complete a permit application for design that will hold up and be correctly constructed. He said there is nothing in our Zoning Ordinance that includes helipads.

Mrs. Carlson said she has some concern about the town's land adjacent to the proposed building site as far as the town being able to use its land.

Mr. Lawson said he is curious about the range that has to surround the pad area. He said he thinks that since it is not in our zoning it would require some type of Special Permit. He said he is basically waiting for more information.

Mrs. Carlson said she feels that the helipad will be a good addition for the residents in our community.

DAVE LLOYD, STORMWATER PLANNER

Ashville Rain Garden

Mr. Lloyd said the paperwork is completed and a statement has been given to the County in the amount of \$14,202.34. He said we have received \$10,000 in advance payment, with a total cost for the project of \$24,202.34. He said the projected cost of the project was \$36,350.00 and the project was completed for \$12,147.66 under budget due to the help of Betsy Burgeson of the Master Gardener Program and the Highway Department.

Bly Hill Step Project

Mr. Lloyd said the Bly Hill Step Down Project has been completed and a statement given to the County on 12/3/12, for \$11,828.82 with a total project cost of \$33,191.62. He said the projected cost of the project was \$40,000 and was completed under budget in the amount of \$6,808.38 with the help of Dan Strickland and the Highway Department. He said the project called for 400 man hours of labor and they completed the work in less than 300 man hours. He said the project itself took less than 80 hours. He said he has put together some education information on this project and a sign has been ordered.

Mrs. Carlson said it would be a good idea to see that the CLMC gets a copy of this information for their next meeting.

Rain Garden Education

Mr. Lloyd said he and Betsy Burgeson will be working on an education program on the construction of Rain Gardens sometime in April, 2013. He said there is a program in Los Angeles, CA that pays contractors \$500 to install rain gardens on private properties. He said this may be an idea for future bed tax funding with the help and direction of the Master Gardener's Program. He stated that rain gardens collected 20-30% more runoff water from roofs and driveways than grass.

Mr. Sena asked if the figures on these projects include the cost of man hours; fuel costs; equipment, etc., supplied by the town.

Mr. Lloyd said the Rain Garden project included the cost of labor, but the Bly Hill project did not allow for compensation of labor hours. He said it has to be in the parameters of the grant and those were not included in the grant.

Mrs. Carlson said when the grant idea was conceived, the County was hoping that the towns would contribute a certain part of the project (i.e. labor, etc.) thus providing more bang for the buck. She said if the runoff to Neits Crest can be slowed down, it will benefit the town in the long run.

Mr. Sena said he thinks the projects are great, but the true cost is more than we are submitting and he thinks the Watershed Commission should know what that true cost is. He said it would be nice to show the community and the people who are paying the bed tax funds where the funds are going and that the town is contributing to these improvements.

Mr. Whitney agreed and said it would be good if Legislator Gould could make that point and let the county know the true cost of the Bed Tax Projects.

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Mr. Lloyd said when he submitted figures on the Rain Garden project, he had included himself and highway labor costs in the projected costs. He said on the Bly Hill project there was only money in the grant for equipment, not for labor.

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

Mrs. Thomas said the Clerk's office has been very busy issuing new transfer station stickers with over 200 being issued to date. She said that will probably increase during tax collection. She said she hopes this program will alleviate the problem of unauthorized people using the transfer station at taxpayer expense. She said she had applied for a NYSERDA Buy Green Save Green rebate for the new copier which cost \$4,940.00 and the town should receive a reimbursement check in the amount of \$3,705.00 soon. The cost of the copier to the town will be \$1,235.00 and the town will own it. She said she has also applied and been approved for a rebate on the Highway Department printer that was recently purchased. She said the grant funding is available until February and encouraged those who might need any equipment covered under the grant to let her know as soon as possible.

- **MOTION # 165 OF 2012**

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

SALLY P. CARLSON, SUPERVISOR (copy of report in minute book)

Mrs. Carlson asked Mr. Strickland if the cameras at the old highway building had been turned off.

She said when she had checked after someone had dumped illegally on Saturday the program had indicated it was off line.

Mr. Strickland said no and asked if it could have been caused by the recent power outage. He said you may need to reboot that computer.

There was brief discussion of using a different type of camera for security at the new building.

- **MOTION # 166 OF 2012**

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE SUPERVISORS MONTHLY REPORT WAS ACCEPTED AS PRESENTED UNANIMOUSLY.

- **MOTION # 167 OF 2012**

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

- **MOTION # 168 OF 2012**

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

- **MOTION # 169 OF 2012**

ON A MOTION MADE BY MR. STOW, SECONDED BY MR. SENA, AND NONE BEING OPPOSED, THE MEETING WAS ADJOURNED AT 8:30 PM.

Nancy M. Thomas
Town Clerk