

April 8<sup>th</sup>, 2010

The regular meeting of the Town Board was held on Thursday, April 8<sup>th</sup>, 2010 with the following members present: Richard Rowland, Supervisor; Daniel Pemrick, Thomas Kinsella, Daniel Cochran and Walter E. Chandler, Councilman. Also present was Town Counsel Mark Schachner, Highway Supt. Walter Barss, one reporter and 5 residents.

At 7:20 PM a public hearing was held on Proposed Local Law #1-2010 – Amending the Zoning Law Relating to Application Requirements. Clerk presented proof of legal publication. There being no public comments either pro or con, the hearing was closed at 7:21 PM.

At 7:25 PM the Board met as the Board of Health to discuss the following unsafe buildings:

Halturwicz, 19 Coombs Roadway - Supervisor Rowland reviewed the report from the Code Enforcement Officer dated April 7<sup>th</sup>, 2010 which states that the building has been dismantled. The issue now is with the debris that remains on the property. The Code Enforcement Officer will be issuing a Notice of Violation of the Town Code with a 30 day compliance time frame. If the property is not brought into compliance then a Court Appearance Ticket will be issued. Supervisor Rowland stated that he did notice that there was a large open well on the property. Chandler, C. felt that there needed to be a cap placed on the open well right away. Cochran, C. stated that there are many areas in the Town that have debris strewn about the property. He asked what authority the Board had regarding this issue. Town Counsel Schachner stated that if it did not constitute a public health hazard, the Board would be limited to Code Enforcement procedures.

353 Grange Road, Lot 1 - Supervisor Rowland reviewed the report from the Code Enforcement Officer dated 3/15/2010. The property is owned by Donald Layman, however the building is owned by Kimberly Eggleston. The inspection was a result of a request by Child Protective Services to evaluate the habitability of the structure. The structure is in an advanced state of disrepair. The kitchen floor has buckled; the interior ceiling has collapsed in several areas; the electrical system is a fire and shock hazard with electrical boxes missing, wires twisted together, exposed connections, etc. Several holes in the floor were also witnessed. Kinsella, C. questioned who the notice should be sent to since the property owner is different from the homeowner. Town Counsel advised that a notice should be sent to both. Pemrick, C. asked if the Town Health Officer should also be involved in this matter. Town Counsel stated that if the Board was looking at this from the stand point of a possible health hazard then they should. Pemrick, C. stated that due to the conditions inside the structure, he would like to see the Health Officer involved in this process as he would like to see anyone that is living in there out of there as soon as possible.

RESOLUTION # 71 – Unsafe Building Notice – 353 Grange Rd, Lot 1

Motion: Pemrick, C.

Seconded: Chandler, C.

RESOLVED, That the Town Board has made the determination that based on the information received from the Code Enforcement Officer, the building at 353 Grange Road, Lot 1 is unsafe and constitutes an imminent life, health and safety risk and hereby authorizes the issuance of an Unsafe Building Notice, and

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FURTHER RESOLVED, that a hearing before the Town Board shall be scheduled for May 6<sup>th</sup>, 2010 at 7:25 PM.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

Hrdlicka, 725 Locust Grove Road - Supervisor Rowland stated that the owners of the property are Frank & Elizabeth Hrdlicka, both deceased. He reviewed the report from the Code Enforcement Officer dated April 6<sup>th</sup>, 2010. The building/property is in a state of disrepair. One building, a concrete block and wood frame building has deteriorated to such a point that the roof and the exterior walls have collapsed. A second building, a small wood frame barn style building, has deteriorated to such a point that the roof has collapsed. Neither building appears to have electric or water service. It was the opinion of the Code Enforcement Officer that the buildings were unsafe and constitute a serious health and safety risk in their present condition. Supervisor Rowland stated that the taxes on the property have been paid. Kinsella, C. asked if the notice would be sent to whomever paid the taxes or if it would be sent to the estate. Town Counsel Schachner advised that it should be sent to the owner of record. Pemrick, C. suggested that notice be served stating that the buildings be removed in 30 days or the Town will take down. Chandler, C. asked if this was something that would go out to bid. Supervisor Rowland stated that generally the Town Highway Department would take it down and all costs would be charged back to the property. Cochran, C. asked if other Towns bid the job out. Highway Supt. Barss believed that the reason that the Highway Dept. handles it rather than a contractor was that the Town would have to pay the contractor and it may be a long time, if ever, before they get the money back. Town Counsel Schachner was not aware of any municipality that did not do the work in house for that reason.

RESOLUTION # 72 – Unsafe Buildings – 725 Locust Grove Road

Motion: Cochran, C.

Seconded: Kinsella, C.

RESOLVED, That the Town Board has made the determination that based on the information received from the Code Enforcement Officer, the buildings at 725 Locust Grove Road are unsafe and constitute a serious health and safety risk in their present condition and hereby authorizes the issuance of an Unsafe Building Notice, and

FURTHER RESOLVED, that a hearing before the Town Board shall be scheduled for May 6<sup>th</sup>, 2010 at 7:20 PM.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

Medvec, 40 Greene Road – Supervisor Rowland reviewed the report from the Code Enforcement Officer dated April 6<sup>th</sup>, 2010. The building, a mobile home, has deteriorated to such a point that the roof has collapsed. The exterior walls are leaning out. The building does not appear to have electrical service and has been vacant for quite some time.

RESOLUTION # 73 – Unsafe Building – 40 Greene Road

Motion: Cochran, C.

Seconded: Kinsella, C.

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RESOLVED, That the Town Board has made the determination that based on the information received from the Code Enforcement Officer, the mobile home located at 40 Greene Road is unsafe and constitutes a serious health and safety risk in its present condition and hereby authorizes the issuance of an Unsafe Building Notice, and

FURTHER RESOLVED, that a hearing before the Town Board shall be scheduled for May 6<sup>th</sup>, 2010 at 7:15 PM.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

Arnold Property – 131 Wilton Road - Supervisor Rowland reported that the Board met as a Board of Health on March 20<sup>th</sup>, 2010 regarding a decaying horse carcass on the property. The Code Enforcement Officer performed a site inspection of the property on March 22, 2010 and reported that the carcass has been disposed of.

There being no further matters to come before the Board, the Board of Health portion of the meeting was closed at 7:40 PM.

The regular meeting was called to order by the Supervisor at 7:41 PM and opened with the pledge to the flag. On motion of Cochran, C. and seconded by Kinsella, C., the minutes of 3/11/10, 3/20/10 & 4/1/10 were approved as submitted.

Check from the Saratoga County Treasurer in the amount of \$14.74 for 2009 interest earned on Cemetery Trusts, as per section 553 of the County Law.

Proposed Local Law # 1-2010 - Supervisor Rowland advised that the public hearing was held prior to the meeting as which time there were no public comments. Cochran, C. stated that with the last Local Law that was adopted, the updated list of Town Officials was not included. He questioned if they could be updated with this law. Town Counsel advised that they would have to be done with the next law since this law had already been advertised and the public hearing held.

RESOLUTION # 74 – Adopt Local Law #1-2010

Motion: Kinsella, C.

Seconded: Cochran, C.

RESOLVED, That the Town Board hereby adopts Local Law #1-2010 – Amending the Town Zoning Law Relating to Application Requirements.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

Planning Board Opening – Town Clerk advised that the Planning Board had interviewed 3 of the 4 candidates. They will be interviewing the 4<sup>th</sup> at their next meeting and will provide the Town Board with their recommendation.

RESOLUTION # 75 – Youth Committee Appointment

Motion: Chandler, C.

Seconded: Pemrick, C.

RESOLVED, That the Town Board hereby appoints Opal Hinds as member of the Youth Committee with said term to expire December 31<sup>st</sup>, 2010.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

Request for Fee Waiver – Supervisor Rowland stated that the Board had received a request from William Bokus for a waiver of building permit fees after a fire at

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his business. Supervisor Rowland spoke with the Supervisors from the Towns of Corinth, Milton, Charlton, Wilton, Moreau, Hadley, Edinburgh, Providence, Malta and Galway. None of the Towns have any provisions for doing this. Several of the Supervisors indicated that when there is a disaster of this type, usually the insurance company will pay for the cost of permits and/or fees to rebuild. Supervisor Rowland to send letter to Mr. Bokus.

New Town Garage Cost Overview – Supervisor Rowland stated that the original bids for the Garage came to \$1,304,041.00. There were change changes orders in the amount of \$33,540.66 & miscellaneous construction costs of \$6,778.73. The total construction costs were \$1,344,360.39. Clerk of the Works fees totaled \$26,585. by using the Town Engineer as the Clerk. Site preparation costs totaled \$28,816.10. Finishing costs were \$84,906.73. The total cost for the building was \$1,484,668.22. The money came from 2008 & 2009 Funds. The Building Reserve Fund in the amount of \$637,103. was used. The remainder of the money, \$847,565.22, came from the General Surplus Fund. Two additional items were included in the 2010 budget, the Gasboy Fuel Program & Equipment and the Garage Lift at a cost of \$105,755. Everything has now been completed. Supervisor Rowland advised that the cost overruns came out to be approximately 2 to 2 ½ percent. Albert Janik, King Road, stated that he understood the costs and the cost overruns. He felt that it was very reasonable. He asked if there was any grant money available for this project. Supervisor Rowland stated that they had applied for State and Federal funding, however they did not get anything. The total cost of the building was paid from the Building Reserve Fund and General Fund. There was no tax increase as a result of the building.

113 Daniels Road - Supervisor Rowland stated that during an inspection of the property by the Code Enforcement Officer on April 6<sup>th</sup>, 2010, it was noted that Rocky Daniels was accepting large truck loads of junk-contaminated soil (steel, concrete, wire rope, crushed steel barrels, etc.). He noted that this property has been the subject of court hearings at both the Town and County levels. According to a Court Order issued by the Saratoga County Supreme Court, Mr. Daniels was to file an erosion and sediment control plan/Stormwater Pollution Prevention Plan (SWPPP) by February 28<sup>th</sup>, 2010. To date he has not complied with the Court Order. Supervisor Rowland asked the Board if they would like to continue the process and direct Town Counsel to go forward with the necessary procedure to find Mr. Daniels in contempt of the Court Order. Kinsella, C. asked if DEC has been contacted. Supervisor Rowland stated that he spoke with a representative and was informed that concrete and steel relevant to the concrete, are acceptable. They were going to have their Stormwater Pollution person contact him. Supervisor Rowland added that the Code Enforcement Officer indicated to him today that a bunch of material had been pulled aside. He was not sure if it had been pulled aside to be removed from the property. Supervisor Rowland noted that the Town has spent a considerable amount of money on this process to date. Pemrick, C. stated that he would like to see the Town proceed as quickly as possible and begin the next action. Mr. Daniels continues to disregard the law and the last judgment placed against him. Pemrick, C. found this to be unacceptable. Albert Janik questioned whether Mr. Daniels was still allowed to bring in wood products. Supervisor Rowland stated that the Court

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has deemed that the 2007 Special Use permit is still allowable. There is a question as to whether or not the use has expanded. Supervisor Rowland explained that Mr. Daniels has been ordered by the Court to send certified letters to 4 or 5 adjacent landowners and the Town. We have yet to receive any of those notices, however the pile of wood chips continues to come and go. Mr. Daniels is only allowed to grind 4 days per month between 9:30 AM to 3:30 PM.

RESOLUTION # 76 – Authorize Town Counsel to Continue Legal Action

Motion: Pemrick, C.

Seconded: Kinsella, C.

RESOLVED, That the Town Board hereby authorizes Town Counsel to continue the legal process against Rocky Daniels for failure to comply with previous Court Orders.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

Brian Auwarter, 41 Mill Road – Mr. Auwarter stated that there is a very old home located next to his home that has gone through many owners. On several different occasions someone new would purchase the home and do some work on the property. At one point the home was abandoned for a couple years. The pipes all froze and eventually the home was vandalized. New owners came along and remodeled the whole house, including a new heating system, etc. Approximately 2 years ago, they sold the home to another couple. Early fall of 2009, they moved out and the place is basically abandoned again. Mr. Auwarter stated that other communities in other parts of the nation are dealing with this in a much larger scale. He asked what the time frame was when dealing with abandoned homes when taxes, electric bills etc. go unpaid. He asked if the Town was notified. Supervisor Rowland stated that the Town did not receive any formal notification of abandoned homes. If taxes go unpaid for 3 years, the County could put the home up for auction. Unless the building is unsafe, there is really nothing that the Board can do.

Geffrey Redick, 75 Bockes Road - Mr. Redick stated that there was a very bad accident in front of his home this past Sunday evening. The vehicle rolled over several times and one of the passengers was thrown from the vehicle. It is his understanding that he passed away a few days later. Mr. Redick stated that there were 3 new homes, including his, that were built in the past few years right at the bend of the road just down from Route 9N. There have been 4 bad accidents that he is aware of over the past 2 ½ years. They have progressively gotten worse. He understands that alcohol was a factor with this last accident. He wanted to make sure that the Board was aware that there is a problem and ask the Board to try and figure out how and what could potentially be done to start solving the problem. Mr. Redick stated that he spoke with the Highway Supt. and he suggested that perhaps a street light could be installed. Mr. Redick asked whether the installation of guard rails or shifting the road made sense. There is currently a posted speed limit of 40 mph and a suggested speed in the curve of 30 mph. There are also arrows alerting drivers of the sharp corner. Highway Supt. Barss stated that he did suggest possibly a street light. The problem is that there is not a real good power pole to attach to. He did not know if that was going to help the speed and alcohol

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that was involved in all the accidents. He stated that he could try and put up a few more delineating signs, but the signs would not stop people from going so fast. To straighten the road out would be a very big undertaking and would be a huge expense for the Town. We would have to take land from landowners, etc. If the road was straightened, it would probably increase the speed. Pemrick, C. asked if the rate of accidents on that particular stretch of road would have any impact or add any strength to a request for speed reduction. Highway Supt. Barss stated that when the Town submits a speed reduction to the State, we can not ask them for a speed. The State will come out and do a study and determine what the speed should be. This has been done a number of times with Daniels Road and they still refuse to reduce the speed limit. Cochran, C. asked if the guardrail system would work. Highway Supt. Barss believed that in this particular case, the vehicle probably would have just rolled right over the top of the guardrail. Chandler, C. asked if the Town could request more patrols by the Saratoga County Sheriff. Highway Supt. Barss stated that he would have the Town Engineer come up and take a look at the situation and see if he has any suggestions.

Town Clerk advised that the 2009 Annual Financial Report has been filed with the NYS Comptroller's Office. A copy is on file in the Town Clerk's Office and available for review.

Highway Supt. Walter Barss notified the Board that he would be appointing Duane Wright as Deputy Highway Supt. effective May 1<sup>st</sup>, 2010 due to the retirement of the current Deputy Highway Supt. Cliff Older.

**RESOLUTION # 77 – Approve Budget Amendments & Transfers**

Motion: Kinsella, C.

Seconded: Pemrick, C.

**RESOLVED**, That the Supervisor be authorized to make the following budget amendments and transfers:

Increase appropriations in the General Fund

\$11,834.12 From A0960 to A9950.9

Transfer from General Fund to Capital Projects

\$92,984.00 From A0201 to A9950.9

Increase appropriations in Capital Projects Fund

\$92,984.00 From H0599 to H5132.44

Increase revenues in Capital Projects Fund

\$92,984.00 From H5031 to H5099

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

**RESOLUTION # 78 – Community Center Use Request**

Motion: Pemrick, C.

Seconded: Cochran, C.

**RESOLVED**, That the following organization is hereby approved to use the Community Center:

Boy Scout Troop 18 – Jami Kenison – April 22, 2010 from 7:00 to 9:00 PM

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

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Monthly reports were submitted by Town Justice Hopkins, Highway Supt, Dog Control Officer (Feb. & March), Town Clerk, UDAG Revolving Loan Fund and Town Supervisor.

RESOLUTION # 79 – General Bills

Motion: Pemrick, C.

Seconded: Kinsella, C.

RESOLVED, That General Bills #182 to #245 in the amount of \$28,712.26 be paid, subject to audit.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

RESOLUTION # 80 – Highway Bills

Motion: Cochran, C.

Seconded: Chandler, C.

RESOLVED, That Highway Bills #55 to #70 in the amount of \$95,496.67 be paid, subject to audit.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

RESOLUTION # 81 – Capital Projects Bills

Motion: Kinsella, C.

Seconded: Pemrick, C.

RESOLVED, That Capital Projects Bills #5 to #7 in the amount of \$92,984.00 be paid, subject to audit.

VOTE: Ayes: Rowland, Pemrick, Kinsella, Cochran, Chandler

Noes: None

On motion of Cochran, C. and seconded by Chandler, C., the meeting was adjourned at 8:20 PM.

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Town Clerk