

September 10th, 2009

The regular meeting of the Town Board was held on Thursday, September 10th, 2009 with the following members present: Richard Rowland, Supervisor; Daniel Pemrick, Peter Coseo, Thomas Kinsella and Daniel Cochran, Councilman. Also present were Town Counsel Mark Schachner, Highway Supt. Walter Barss and 6 residents.

At 7:25 PM the Board met as a Board of Health to discuss the following unsafe building.

Unsafe Building – 19 Coombs Roadway – Halturewicz - Supervisor Rowland stated that the Board received a response from Mr. Halturewicz in response to their August 13th, 2009 letter. Mr. Halturewicz stated that he did not receive the Certified Letter or Notice of Certified Letter that was sent on August 14th. He was not aware of the letter until he received the fax on 9/4/09 and a copy of the letter by regular mail on 9/8/09. Mr. Halturewicz stated that he was in the process of working with his engineering firm to get a report. Coseo, C. confirmed that the Board had still not received an engineers report and asked Town Counsel if he felt that sufficient notice had been given to the property owner. He added that although Mr. Halturewicz had not claimed the certified letter that was sent to him, his letter dated 9/9/2009 clearing indicates that he received the fax and regular mail. Cochran, C. stated that on August 12th, 2009 Mr. Halturewicz stated that he spoke with his engineer, Mr. Brooks, and stated that he would be submitting a letter to the Town. Cochran, C. felt that this issue was just going to keep going on and on. Pemrick, C. felt that the Board has been very patient regarding this matter. Coseo, C. stated that based on the following: Lack of an engineering report from the property owner; report that was submitted by the Town Code Enforcement Officer; the length of time that the Board has allowed the property owner to work on this matter over a period of several months; he would make a motion that the Board follow through with the Unsafe Building procedure and take whatever steps that are required to remove the structure. Pemrick, C. seconded. VOTE: Ayes: Rowland, Pemrick, Coseo, Kinsella, Cochran. Town Clerk instructed to send a letter notifying the property owner of the Boards decision and that it should be sent by certified mail, regular mail and fax. Highway Supt. Barss stated that it would be at least a week before his department would be able to get to it.

The regular meeting of the Town Board was called to order at 7:30 PM by Richard Rowland, Supervisor and opened with the pledge to the flag. On motion of Cochran, C. and seconded by Coseo, C., the minutes of 8/13/2009 and 9/3/2009 were approved as submitted by all Board members present.

Open Space Fees – Check for \$500. received from Joyce Ballard.

County Mutual Aid Agreement – Supervisor Rowland advised that the Board members now have a copy of the agreement that was voted on and approved at the County. Town Counsel Schachner stated that all but one of the typographical errors he commented on from the last draft had been changed. However, he still felt that it was very ambiguous as to whether employees pay is or is not reimbursed. He was referring to Section III – Reimbursement A & B. Town Counsel Schachner felt that it could be interpreted either way. His guess was that the intention was that it shall not be reimbursed. Coseo, C. stated that if it was the intention not to reimburse, then he would like to know why. Supervisor Rowland believed that the intention was to reimburse. His

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Understanding was that there was an intent to reimburse as long as the money was available and it was an allowable reimbursement. Town Counsel Schachner stated that there are two types of expenses at issue, personnel and equipment. Reimbursement for equipment is very clear. However, it is not clear as to whether or not personnel costs will be reimbursed. Coseo, C. stated that he would like to know. He questioned why it wouldn't be reimburseable under Federal or State Law. Coseo, C. questioned if there was a reason why we shouldn't expect to get reimbursement if we sent our men down to help out. Highway Supt. Barss stated that it was his understanding that when the provider gets reimbursed then they forward payment. If they do not receive Federal or State reimbursement, then reimbursement is not normally expected. Town Counsel Schachner believed that there were ways to state that in the agreement so that it was better understood. Coseo, C. felt that it was important that all Towns were on the same page as to whether or not they should expect reimbursement and that everyone was following the same rules. Supervisor Rowland will go back to the Public Safety Committee and explain the Town's position. Coseo, C. stated that he did not have a problem with the Agreement as long as everyone had the same understanding as to what to expect. On motion of Coseo, C. and seconded by Cochran, C, the matter was tabled until the next meeting.

Town Code Revisions – Cochran, C. suggested that the Board hold one more workshop session to go over the final draft prior to advertising for a public hearing. A workshop was scheduled for 8 AM on Saturday, September 26th. Cochran, C. will provide the Board members with a final draft prior to that meeting so that they have time to review.

Court Audit - Supervisor Rowland stated that Pemrick, C. and himself were in the process of reviewing the paperwork provided by the Court. They should have a report for the next meeting.

Update New Town Garage - Kinsella, C. stated that he met with the Town Engineer, Mechanical Engineer and Contractor regarding the heating system. It was decided that probably the best option in the long run would to put in a heat exchanger. While you may be able to get the system to work by moving the pump down, there is only a 1 year warranty with the contractor. Any problems after that time would be the Town's responsibility. Kinsella, C. added that it was not clear that long term, the way that the system is set up, that it would be operable. There could be some air binding in some of the high points as well as some other operational problems with it. It was felt that it would be a much more reliable system if the heat exchanger were to be installed. The cost would be approximately \$10,500. Pemrick, C. asked if the system would use water or glycol. Kinsella, C. stated that they would not have to use glycol. They did not feel that it was worth the trouble and liability expense. There is someone at the garage all the time during the winter. There is also a propane backup system. Coseo, C. asked if the Board could say with a reasonably degree of certainty that the system was either properly or improperly designed. Kinsella, C. stated that it was not black and white and it would be a long debate between two professionals with differing opinions. He stated that the system may work for a year or two before something gets airbound on it and other problems occur. He felt that the heat exchanger would be more reliable for the long

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run. Supervisor Rowland stated that they have discussed the situation with the boiler manufacturer and they are not clear as to whether a heat exchanger would be required or not and basically say “try it”. He noted that the contractor broke down the costs and he felt that he was proposing to do the job for a very reasonable price. The cost for the parts/components was over \$7,500. Coseo, C. asked what the consensus was regarding making this a closed system. He asked if there was a problem with the warranty. Kinsella, C. stated that you would need to have a boiler code stamp on the boiler to do that and he saw no evidence that there was one. Coseo, C. asked if the heat exchanger would cause any warranty problems. Kinsella, C. stated that it was coming from the same manufacturer and he did not believe that it should have any effect on the warranty. Coseo, C. felt that only way that they were going to be able to tell if the system was going to work properly was to test it. Kinsella, C. stated that the engineer can explain on paper why this system will work. There are 2 other individuals, who do not have engineering degrees, who have practical operating experience on these systems and they say that it is going to give us trouble. He added that when he is trouble shooting, he takes significant input from practical operating experience over the technical data.

RESOLUTION # 122 – Approve Change to Work Order – Mechanical

Motion: Coseo, C.

Seconded: Kinsella, C.

RESOLVED, That the Town Board hereby approves a change to the work order to include the installation of the Heat Exchanger with full reservation of all Town rights to pursue potential claims against engineers or contractors.

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

Noes: None

Pemrick, C. asked what the time frame was to complete the installation. Kinsella, C. stated that the heat exchanger could be delivered in 3 days. In the meantime, the contractor will begin the layout and start building the stand for the heat exchanger. The whole thing could be done within a week. Now that the heat exchanger is going to be installed, the pump will not have to be moved. Cochran, C. asked what was left to be done at the garage site. Highway Supt. Barss stated that they had a little paving left to do that he would like to hold off on until after the trash collection week. An Open House for the garage was tentatively scheduled from October 3rd from 10 to noon.

RESOLUTION # 123 - Community Center Use Requests

Motion: Cochran, C.

Seconded: Pemrick, C.

RESOLVED, That the following organizations be authorized to use the Community Center for their regular meetings:

Mulleville Snowmobile Club – 2nd Tuesday of the Month from September to April - 7 to 9 PM

Brownie Troop 3618, Mary Yuhasz, Leader - Two Wednesday evenings per Month from Sept. to June, 6:00 – 7:30 PM

Girl Scout Troop 3254, Melissa Nicolaysen, Leader – Tuesday afternoons from September to June, 3 – 5 PM.

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

Noes: None

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RESOLUTION # 124 - Reappointment to Board of Assessment Review

Motion: Cochran, C.

Seconded: Pemrick, C.

RESOLVED, That the Town Board hereby re-appoints Albert Janik as member of the Board of Assessment Review with said term to expire 9/30/2014.

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

Noes: None

Workplace Violence Policy - Supervisor Rowland advised that the Town must adopt a workplace violence policy. Town Clerk provided Board members with a packet of information received from the NYS Dept. of Labor. Coseo, C. and Kinsella, C. asked if there were any sample policies that were available. Town Clerk to obtain samples. Pemrick, C. asked what the procedure would be to implement this policy. Town Counsel Schachner stated that it could be adopted by a Board resolution.

RESOLUTION #125 - Reapply for Home Program Grant

Motion: Coseo, C.

Seconded: Cochran, C.

RESOLVED, That the Town Clerk be directed to send a letter to Marvin & Company Community Revitalization and ask that they again represent the Town by preparing and resubmitting a grant application for the next round of funding for the HOME Program.

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

Noes: None

RESOLUTION # 126 – Budget Amendment & Transfers

Motion: Cochran, C.

Seconded: Kinsella, C.

RESOLVED, That the Supervisor be authorized to make the following Budget Amendments & Transfers:

Transfer money from General Fund to Capital Projects Fund -

\$141,566.34	From A0201	to	A9950.9
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Budget Amendment to General Fund

\$128,094.94	From A0960	to	A9950.9
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Amend Capital Projects for Expenses –

\$ 2,065.00	From H0960	to	H5132.41
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122,389.70	From H0960	to	H5132.43
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17,111.64	From H0960	to	H5132.44
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Amend Capital Projects for Revenues –

\$141,566.34	From H031	to	H0510
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For General Bills –

\$3,998.09	From A1990.4	to	A3310.4
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151.52	From A1990.4	to	A8810.4
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958.72	From A0960	to	A1110.4
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For Highway Bills –

\$3,521.98	From DA5112.2	to	DA5110.4
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VOTE: Ayes: Rowland, Pemrick, Coseo, Kinsella, Cochran

Noes: None

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Monthly reports were submitted by Building Department (July), Town Justices, UDAG Revolving Loan Fund, Highway Supt, Dog Control Officer, Town Clerk and Town Supervisor.

RESOLUTION # 127 - General Bills

Motion: Kinsella, C.

Seconded: Cochran, C.

RESOLVED, That General Bills #480 to #529 in the amount of \$28,398.54 be paid, subject to audit.

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

Noes: None

RESOLUTION # 128 - Highway Bills

Motion: Kinsella, C.

Seconded: Pemrick, C.

RESOLVED, That Highway Bills #146 to #168 in the amount of \$209,267.84 be paid, subject to audit.

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

Noes: None

RESOLUTION # 129 - Capital Project Bills

Motion: Kinsella, C.

Seconded: Cochran, C.

RESOLVED, That Capital Project Bills #55 to #62 in the amount of \$141,566.34 be paid, subject to audit.

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

Noes: None

On motion of Coseo, C. and seconded by Kinsella, C., the meeting was adjourned at 8:10 PM.

Town Clerk