

At the regular meeting held September 21, 2010 at Hutchinson Hall, Newark Valley at 7:00 P.M. the following were

**PRESENT:**

Stuart Yetter, Supervisor  
Donald Thomas, Councilman  
Ronald Graham, Councilman  
Joe Tomazin, Councilman  
Daniel Cheresnowski, Councilman

Also Present Karen McMullen of Levene, Gouldin & Thompson, Attorney to the Town; Charles Meade, Highway Superintendent; Tom Larson, Code Enforcement Officer; Hans Peeters, Planning Board Chairman; Charlie Morgan, and Dominica Creeley.

Supervisor Yetter called the meeting to order at 7:00 p.m.

**Pledge of Allegiance**

Supervisor Yetter led all in the Pledge of Allegiance.

**Approval of Board Meeting Minutes for August 17, 2010 and September 7, 2010**

**Resolution #84-2010**

**Approval of Board Meeting Minutes**

On a motion offered by Councilman Graham and seconded by Councilman Tomazin, the Board approved the meeting minutes for August 17<sup>th</sup> and September 7<sup>th</sup> 2010, as submitted.

Councilman Thomas -AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin - AYE  
Supervisor Yetter - AYE

**Motion Carried**

**Privilege of the Floor**

Ms. Creeley spoke on behalf of the Elementary PTS and its Fall Festival. One of the items for the Festival is a wall demonstration of interesting facts about the history of the school building, and Ms. Creeley asked if any of the Board members knew of such information that would be of interest. The Board members agreed to forward any such information and to pass along to others the request.

There were no other comments for Privilege of the Floor.

**Privilege of the Floor was closed.**

## **Highway Report**

### **Highway Report September 21, 2010**

- #1. Diesel Price: \$2.4325                      Gas Price: \$2.2840
- #2. All projects are complete waiting to get all bids in. I might be able to do more oil and stone, less than a mile, maybe 5/10ths of a mile, I don't know. I am looking at the backside of Howard Hill if not, maybe 3 to 500 feet of fabric. I'll let you all know before starting.
- #3. We have been helping with oil and stone for, Tioga County Hwy, Town of Owego and finishing up with Town of Candor. Also, we have been finishing up mowing everywhere.
- #4. You will see in the bills, that Mill Street Body Shop had painted the new used Truck #82. The Town of Berkshire is striping a truck, same year, with the plow pieces we need. We are waiting for them to do a head gasket job so they can bring the truck to us, so we can take the parts off.
- #5. We have sand to haul in, spot ditching to do yet and of course brushing too.
- #6. Soon, I am going to have George get a Fire Truck to clean the bugs and spider webs off of the Town Office.
- #7. State Bid Prices are out and I'm getting prices to Re-Tire Truck #80 with 98,000 miles, getting tired! Right now Extended Cab with short box or long box in Chevrolet, Ford and Dodge, has Regular Cab with long box. Base price on Truck is \$22,800.00 I'm also getting a price on a plow and hitch.

Councilman Tomazin inquired about the cost of the parts from the Berkshire truck. Mr. Meade reported that there would be no cost, as the parts were no longer needed by Berkshire.

Councilman Tomazin asked if the fire truck was used to hose off the Hutchinson building. Mr. Meade indicated that it was, to remove accumulated spider webs, bugs, and so forth that had been attracted to the lights.

## **New Business**

### **Supervisor's Financial Report**

Supervisor Yetter said we are still doing okay. The worst thing is the decrease in sales tax revenue, which may be another 3% decrease. Everything is on track except CHIPs reimbursement. Also, we have not yet received the state per capita which was budgeted at \$20,000. Franchise fees are also down a little, and we are tight on snow contractual and snow personal service.

**Resolution #85-2010****Supervisor's Financial Report**

On a motion, offered by Councilman Cheresnowski and seconded by Councilman Thomas, the Board accepted the Supervisor's Financial Report for August 2010, as submitted.

Councilman Thomas -AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin - AYE  
Supervisor Yetter - AYE

**Motion Carried**

Supervisor Yetter indicated that a budget transfer from the contingency account was needed to cover the costs of getting the website started and make the equipment purchase for the Town Clerk as previously approved.

**Resolution #86-2010****Budget Transfer**

On a motion offered by Councilman Tomazin and seconded by Councilman Cheresnowski, the Town Board authorizes a Budget Transfer: \$820.00 from A1990.4 Contingency to A1220.4 Supervisor C.E. (\$141.62), A1410.4 Town Clerk C.E. (\$653.44), and A1430.2 Personal Equipment (\$24.94).

Councilman Thomas -AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin- AYE  
Supervisor Yetter - AYE

**Motion Carried**

Supervisor Yetter asked that the Board consider additional compensation for the Bookkeeper for the new duties of maintaining the website. After discussion, the Board agreed that it would be appropriate to recognize the effort and work performed in addition to the Bookkeeper's regular duties.

**Resolution #87-2010****Compensation for Website Maintenance**

On a motion offered by Councilman Graham and seconded by Councilman Cheresnowski, the Town Board authorizes additional compensation for the Bookkeeper (Cheryl Galluzzo) in the amount of \$50 per month to provide website maintenance for the Town's website.

Councilman Thomas -AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin- AYE  
Supervisor Yetter - AYE

**Motion Carried**

## **Old Business**

### **2011 Budget Update**

Supervisor Yetter opened the discussion by asking the Board members to help set a goal for an acceptable tax increase for next year. He indicated that in prior years the goal was 3-4%, but that the first run of the budget, it appeared that it would take a 10% increase, or the use of more of the surplus to cover the requested items. Supervisor Yetter suggested a 5% maximum increase but that would have tough choices due to numerous factors, such as:

- Decrease in the taxable property values
- Decrease in sales tax revenue
- Increase in retirement costs
- Increase in health insurance costs
- Increase in highway employee costs (contractual)
- Increase in expenses for highway equipment and supplies

However, there are some positive items:

- Decrease in worker's compensation, because there were no accidents
- Decrease in commercial liability

The budget has to be completed and given to the Town Clerk by the 30<sup>th</sup> of September, and then will be presented to the Town Board at the October 5<sup>th</sup> regular meeting.

The Board discussed various methods to reduce costs for the coming year. However, Councilman Tomazin asked that salary increases for the Town Board members be considered as it has been several years since there have been any.

### **Ambulance Service**

Supervisor Yetter reported that he is still attempting to finalize costs related to the ambulance service, Berkshire EMS. He requested and received the ambulance company's tax returns for 2007 and 2008, but was told that the 2009 return had not yet been filed. He has given them a copy of the current contract twice, and the president of Berkshire EMS is working to get the contract in place. Supervisor Yetter also reported that the ambulance service agreed to refund the money to customers who paid for services that should have been covered by the service agreement.

The Board discussed the status considering that there are two other towns using the same ambulance service and that everything is up in the air, depending on whether all towns continue to participate. Currently, the amount budgeted is the same as last year.

## **Department & Council Reports**

### **Code Enforcement & Fire Marshal**

The Code Enforcement Officer, Mr. Larson, reported on several on-going situations:

A. Abbey property. Mr. Larson submitted a written report titled "Report to the Town Board of Newark Valley New York" dated September 21, 2010 regarding the conditions at the property as noted below:



## TOWN OF NEWARK VALLEY

109 Whig Street  
Newark Valley, New York 13811  
Phone: (607) 642-8746  
Fax: (607) 642-8060

### REPORT TO THE TOWN BOARD OF NEWARK VALLEY NEW YORK September 21 2010

On August 30, 2010 I declared the Manufactured Home owned by Thomas Abbey located at 961 Markham RD, Newark Valley NY 13811, unsafe. (Tax Map # 65-1-41) Due to the fire which occurred, this property violates the New York State Property Maintenance code 107.1.3 titled "Structure unfit for human occupancy". The structures are collapsed and damaged as shown in the attached pictures and are dangerous due to the possibility of further collapse or structural shifting and due to the possibility of human injury from exposed elements such as metal and wood. I recommend the demolition and removal of all that remains of the buildings involved in and damaged by the fire, which includes the travel trailer and the structures attached to the trailer. I also recommend that the personal property and contents of the structures involved in the fire be demolished or removed. Any personal property that is undamaged may be stored in the undamaged red shed that remains on the property. Demolition and removal of all damaged and dangerous structures and contents can be effectuated by removal from the site and proper disposition in a landfill or other legal location or by burying non-hazardous items on the site.



Signed;  
*Tom Larson*  
Tom Larson  
Town of Newark Valley  
Code Enforcement Officer

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### **Resolution #88-2010**

### **Accepting Code Enforcement Officer's Report**

On a motion offered by Councilman Tomazin and seconded by Councilman Thomas, the Town Board accepted the Code Enforcement Officer's "Report to the Town Board of Newark Valley" referenced above as submitted.

Councilman Thomas - AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin- AYE  
Supervisor Yetter - AYE  
**Motion Carried**

## **Resolution #89-2010**

## **Authorizing Public Hearing**

On a motion offered by Councilman Cheresnowski and seconded by Councilman Graham, the Town Board took the following action:

### RESOLUTION:

WHEREAS, the Code Enforcement Officer of the Town of Newark Valley has filed his report in writing with the Town Board of the Town of Newark Valley containing his findings and recommendations regarding certain structures situate on premises located at 961 Markham Road designated by Tax Map No. 65.00-1-41, in which report said Code Enforcement Officer states his opinion that said structures are unsafe and dangerous to the public and recommends their immediate demolition and removal, and;

WHEREAS, the Town Board desires to conduct a public hearing with respect to said premises in order to solicit input and comment from the public in connection with proposed demolition and removal of the premises located at 961 Markham Road designated by Tax Map No. 65.00-1-41, which said public hearing will be conducted at Town of Newark Valley Town Hall at 109 Whig Street on October, 19, 2010 at 7:00 P.M.

NOW, THEREFORE, BE IT RESOLVED, that:

- (1) Notice be given to Thomas Abbey, reputed owner of the structures situate on premises located at 961 Markham Road designated by Tax Map No. 65.00-1-41, in the form required by Section 9 of Local Law # 1 of 2007 of the Town of Newark Valley;
- (2) A public hearing is hereby approved and scheduled for October, 19, 2010 at 7:00 P.M. at the Town Hall at 109 Whig Street in Newark Valley, New York, in relation to such dangerous and unsafe structure; and
- (3) The Town Clerk of the Town of Newark Valley is hereby authorized to prepare and publish notification of the public hearing in accordance with the requirements of Local Law #1 of 2007 of the Town of Newark Valley, and is authorized to take such additional and further action as is necessary to implement this Resolution.

Dated: 9/21/10

Dated: 9/21/10

Dated: 9/21/10

Dated: 9/21/10

Dated: 9/21/10

[Signature]  
Supervisor

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Councilman

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Councilman

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Councilman

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Councilman

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Councilman Thomas -AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin- AYE  
Supervisor Yetter - AYE  
**Motion Carried**

Supervisor Yetter indicated that the public hearing could be held at the beginning of the October 19<sup>th</sup> Board meeting by opening the meeting, opening the public hearing, closing the public hearing and then reopening the Board meeting.

**B. Mobile home permit # 10-72 at 350 Shirley Road**

Mr. Larson presented the permit for this property, replacing an existing mobile home.

**Resolution #90-2010**

**Mobile Home Permit-McCarthy**

On a motion offered by Councilman Tomazin and seconded by Councilman Graham, the Town Board approves the mobile home replacement at 350 Shirley Road submitted by Carol McCarthy, contingent upon meeting all code requirements.

Councilman Tomazin- AYE

Councilman Thomas -AYE

Councilman Graham - AYE

Councilman Cheresnowski - AYE

Supervisor Yetter - AYE

**Motion Carried**

**C. Mobile home permit # 10-70 at 821 Brown Road**

Mr. Larson presented the permit for this property, noting that it is replacing an existing mobile home and that the lot size is 100 x 150. The proposed mobile home is 80 feet and it will need to be carefully situated to ensure meeting the code requirements.

**Resolution #91-2010**

**Mobile Home Permit-Gardner, et al**

On a motion offered by Councilman Cheresnowski and seconded by Councilman Tomazin, the Town Board approves the mobile home replacement at 821 Brown Road submitted by Timothy Gardner, et al, contingent upon meeting all code requirements.

Councilman Tomazin- AYE

Councilman Thomas -AYE

Councilman Graham - AYE

Councilman Cheresnowski - AYE

Supervisor Yetter - AYE

**Motion Carried**

**D. Tull's barn property**

Mr. Larson reported that he had been working with Judy Berghorn to get the matters resolved with this falling down barn. He granted an additional 30 days from September 21, 2010 for resolution.

**E. Lewis property at 1181 Chamberlain Road**

Mr. Larson reported that there is a lengthy history related to this property. Several years ago, there was an 18 month variance granted to have the mobile on the property while a stick-built home is being built there by the property owner. That variance was not

complied with as it expired. The property owner did not go back to the Variance Board to get it extended. Subsequently, the permit for the mobile home was disallowed and the property owner is in violation for having the mobile home on the property.

Mr. Larson indicated that he had issued a 30 day notice to either obtain the variance or to remove the mobile home from the property.

Mr. Larson further noted that the property owner did not have a permit for building the house. Thus, he issued a "Stop Work" order for the house. As of today, the property owner has obtained a building permit to erect the new home.

In addition, there is a detached garage on the property that was erected previously without a permit and no certificate of occupancy. All the electric on the property runs through this garage. As of today, the property owner obtained a building permit for the detached garage. Mr. Larson reported that the property owner needs to obtain an electrical inspection and then Mr. Larson will be able to issue a certificate of occupancy.

An application for a variance has not yet been made.

Supervisor Yetter indicated that although the Town Board is not supposed to influence the Variance Board, it is important that the Variance Board follow the laws. He inquired if the variances should be reviewed by legal.

Ms. McMullen indicated that might be possible and that she would look in to the requirements, and if it needed to be an independent attorney. She also mentioned that additional training might benefit the Variance Board.

The Board discussed briefly their expectations and concerns regarding the Variance Board.

#### F. Courtright/Root mobile home

Mr. Larson reported that he had not yet issued a deadline letter to Ms. Courtright/Root nor to Sall and Associates, the owners of the park in which the mobile home is located. Mr. Larson received notice from Ms. Courtright/Root that the electric situation has been corrected. However, Mr. Larson has not yet seen any such evidence from a qualified electrical inspector.

Mr. Larson further indicated that he has spoken with Tioga Opportunities and once the electrical inspection is OK, then Tioga Opportunities is willing to offer help to Ms. Courtright/Root to correct some of the deficiencies in the mobile home.

#### G. Gregory gravel mine

Mr. Larson reported that he has been working with Mr. Gregory and reviewing the Newark Valley site development plan, which is mainly designed to deal with the development of residential subdivisions. At the next meeting, Mr. Larson said that he will give the Town Board a reduced plan that would be applicable to a commercial



development such as this proposed gravel pit. He further stated that it is acceptable to make portions of the standard site development plan “not applicable” to a particular site.

Mr. Larson stated that the cost of the site development plan to Mr. Gregory could be \$500 to start and up to \$900 total. Mr. Larson said \$500 will be sufficient, in his opinion.

The Department of Environmental Conservation is responsible for any environmental impact study that might be required.

Mr. Larson reported that he had reviewed maps and drawings of how the property looks now, what it is intended to look like after 2 years of operations, and how it will be reclaimed when it stops being a gravel pit.

Mr. Larson further stated that there will need to be a public hearing before the gravel mine is approved, but that we do not have to specifically notify adjacent landowners.

Supervisor Yetter remarked that our site plan review is geared towards housing but that we can waive requirements as appropriate.

Ms. McMullen stated that the applicant for site development has to get a survey, but that could be waived. However, if any landowners’ rights might be impinged, we should require the survey.

Councilman Thomas remarked that he was generally against any more digging in our area. Councilman Tomazin agreed with that.

#### H. No Town mining code

Mr. Larson noted that the Town of Newark Valley does not have a mining code. Mr. Gregory has offered to draw up such a code for petroleum, gravel, etc.

#### I. No Town windmill code

Mr. Larson noted that the Town of Newark Valley does not have a windmill code that might be needed in the future, if someone wanted to erect a windmill.

Councilman Tomazin asked what sort of code would be needed.

Ms. McMullen stated that it would include the site plan review, setbacks, or other criteria that would be applicable to the type of structure.

Supervisor Yetter responded that each type of land use requires a specific code and that since the Town of Newark Valley does not have zoning requirements, we need to have some codes.

#### J. Brinks - 2 properties

Mr. Larson reported that there were electrical inspection problems on both properties (primary and daughter's) and that certificate of occupancy has been issued on daughter's property with just a verbal agreement to get the electrical inspection done. The certificate of occupancy could be revoked because the electrical inspection was not done.

Councilman Cheresnowski asked if there were any earth shattering electrical faults. Councilman Tomazin commented that we don't own the electrical inspector, nor to we have an electrical inspector on staff.

Supervisor Yetter stated that if code enforcement errors were made in the past, we did not now want to compound the error.

Mr. Larson submitted his monthly report and it is on file in the Clerk's office.

#### **Dog Control**

There was no report from the Dog Control Officer.

#### **Other**

Supervisor Yetter indicated that each of the Board members had received a series of handouts from the training that he attended on the laws that the Town could pass to help out with potential gas drilling. The handouts are on file in the clerk's office.

Supervisor Yetter told the Board members that Tioga County had asked if the Towns would be willing to have a single point of contact to be the liaison between gas drilling companies, permitting agencies, towns, highways, landowners, etc., to help shepherd the process to make it as simple as possible. What does the Town Board think of that idea?

Councilman Thomas inquired what would be the process if an oil company drilled in the wrong location. Department of Environmental Conservation (DEC) issues the permits.

Supervisor Yetter indicated that road use, driveway access, truck routes (heavy vehicles) would be monitored by this single point of contact.

Councilman Tomazin indicated that the single point of contact was a good idea and that would help relay information to the Town Board.

Supervisor Yetter indicated that it will be crucial that everyone on the Board knows what is going on so that they do not feel foolish if they get calls from the community.

Councilman Tomazin mentioned that the Board needs to consider a noise ordinance.

Supervisor Yetter stated that a book was being put together that would include all the things to be taken into consideration when drilling starts. The information is forthcoming.

Councilman Cheresnowski and Councilman Graham agreed that the single point of contact is a good thing.

Councilman Thomas stated that he was not sure.

**Resolution #92-2010**

**Single Point of Contact for Drilling**

On a motion offered by Councilman Cheresnowski and seconded by Councilman Tomazin, the Town Board supports the concept of a single point of contact in Tioga County for the activities of gas well drilling.

Councilman Tomazin- AYE

Councilman Thomas -AYE

Councilman Graham - AYE

Councilman Cheresnowski - AYE

Supervisor Yetter - AYE

**Motion Carried**

**Planning Board**

Mr. Peeters reported that the Planning Board has been looking at the Peddlers and Soliciting Law for updating. The law is anti-business and not current with the times, but it may provide some protection for the consumers. He would like input from the attorney to the Town. The law is also difficult to enforce. Mr. Peeters asked if the Town Board had any suggestions as to what the Planning Board should do.

Mr. Peeters reported that the Planning Board is continuing to develop the Comprehensive Plan, but he asked if that is what the Town Board wants them to do. The Plan is needed in order to apply for any grants,

Councilman Tomazin remarked that no one is jumping up for any grants.

Councilman Tomazin asked if the Planning Board needed a new member now that Al Fleming resigned.

Supervisor Yetter pointed out one of the citizens who is present at this Board meeting and has shown an interest in the activities of the Town. He asked if Ms. Creeley would be interested in serving on the Planning Board.

Ms. Creeley asked several questions and agreed to volunteer to be on the Planning Board.

**Resolution #93-2010****Appointing New Planning Board Member**

On a motion offered by Councilman Tomazin and seconded by Councilman Graham, the Town Board appoints Dominica Creeley to fill the unexpired term of Al Fleming on the Town of Newark Valley Planning Board.

Councilman Tomazin- AYE

Councilman Thomas -AYE

Councilman Graham - AYE

Councilman Cheresnowski - AYE

Supervisor Yetter - AYE

**Motion Carried**

**Justice Department**

Justice Todd Smith reported for the month of August the following cases disposed of: 26 Traffic Tickets; 1 Criminal Charge; 0 Dog cases, 1 Civil case; 0 Econ cases, 0 Town Law cases. A total of \$1,965.00 was sent to the NYS Comptroller's Office.

Justice John Schaffer reported for the month of August the following cases disposed of: 43 Traffic Tickets; 2 Criminal charges; 0 Dog cases; 0 Civil case; 0 Econ cases and 0 Town law cases. A total of \$5,541.00 was sent to the NYS Comptroller's Office.

**Town Clerk**

The Town Clerk submitted her monthly reports and they are on file in the Clerk's office.

**Council Members & Committees**

Supervisor Yetter remarked that the Town Clerk had been receiving information regarding the new duties for Dog Licensing. The information received so far regarding the Model Local Law was given to Ms. McMullen.

Councilman Tomazin inquired if we could make a policy that no cell phones are allowed to be used by full time employees while on duty and driving, or operating equipment, except in an emergency. The Board discussed the issue and asked Ms. McMullen to draft a sample policy.

Ms. McMullen told the Board and the Code Enforcement Officer that the letters to Courtright/Root and to Sall and Associates could be sent out; she will send Mr. Larson an email to document the approval.

**Resolution # 94-2010****General Bills**

On a motion offered by Councilman Tomazin and seconded by Councilman Cheresnowski, the Board authorized payment of General Fund Vouchers 260 - 295 inclusive, in the amount of \$17,682.10.

Councilman Thomas -AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin - AYE  
Supervisor Yetter – AYE

**Resolution # 95-2010****Highway Bills**

On a motion offered by Councilman Graham and seconded by Councilman Tomazin, the Board authorized payment of Highway Vouchers H151 – H175 inclusive, in the amount of \$78,002.80.

Councilman Thomas -AYE  
Councilman Graham - AYE  
Councilman Cheresnowski - AYE  
Councilman Tomazin - AYE  
Supervisor Yetter – AYE

**Motion Carried**

There was a motion to adjourn the meeting at 8:55 P.M., offered by Councilman Graham and seconded by Councilman Cheresnowski.

The next meeting is October 5, 2010.

Respectfully submitted,

Jane S Locacio  
Deputy Town Clerk