

February 7, 2012

The regular meeting of the Varick Town Board was called to order by Supervisor Hayssen at 7:00 p.m. Present were council members, John Saeli, Kathy Russo, and Robert Bauman, Attorney for the Town, John Sipos, Town Clerk, Donna Karlsen, Highway Superintendent, Richard McCulloch, Judge, David Ettman, Code Enforcement Officer, Larry Colton, Bookkeeper, Cheryl Poormon, Assistant Bookkeeper, Carol Sipos and reporter, Aneta Glover.

Petitioners: None

Justice Report: Judge Ettman presented his 2011 Justice Court Summary Report and corrected the traffic cases opened on his report to read 367 from 467.

A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to accept the 2011 Justice Court Summary Report with correction as presented by Judge David Ettman.

Judge Ettman also reported that his justice records are available to the board's auditing committee for their review.

Judge Ettman also presented the board with Seneca Security Service 2012-2013 Court Security contract at the same rate as the 2011 contract and this service was budgeted for in the 2012 budget.

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to accept the 2012-2013 Seneca Security Service contract as presented and to authorize Supervisor Hayssen to sign and remit.

Highway: Mr. McCulloch reported that as the result of the mild winter the salt pile is in good shape and they have been completing maintenance work and patching of roads.

Mr. McCulloch recommended to the board that the town not send his F250 Ford truck to auction as originally planned as it has very low mileage and he expressed his concern that it might not bring enough at the auction to warrant auctioning it. He reported that if Teitsworth hadn't waived their commission and sent the town the full amount of the auctioned price on the 2010 truck, we would have taken a loss on it. Teitsworth reported to him that people attending the auction are not willing to spend what these newer trucks are valued at and are often sold below value.

Mr. McCulloch reported that the 2000 International 10 wheel dump truck is beginning to have more maintenance issues and recommend that the board look at replacing it before it becomes problematic. He reported that this truck is the primary truck for snow removal and it would not be wise to have to depend on the older 10 wheeler. He estimated a new truck would cost approximately \$200,000 which raises the question as to whether the town purchases new or used. Mr. McCulloch requested the board consider this cost when

the 2013 budget is being developed and for them to provide him with an approved dollar amount for him to spend.

Mr. McCulloch reported that he replaced the American flag in the front of the building which was donated by the Ovid American Legion, which is the second replacement in less than a year. He also reported that the metal was cleaned up around the barns and the town received a check in the amount of \$453.10 from Luffman Metal Recyclers.

Varick Water District No. 1: It was reported that Butch Carroll was completing the work at the Hinman residence and the water was turned off at the Spano residence and the water meter pulled.

The district received a bill from Team EJP Syracuse, NY for 4 service boxes with plug cover and 4 service box stainless rods in the amount of \$219.36. Mr. Hayssen felt that bill was incorrect and it should have been for only 2 each of the above mentioned parts, but suggested the board approve the bill as presented and he would contact the county regarding this.

A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to approve the Team EJP Syracuse, NY invoice number 4496421 in the amount of \$219.36 with the billing amount to be questioned by Supervisor Hayssen.

Jim Bromka also provided 2011 water meter readings to determine the gallons of water used. These numbers could be used more accurately if the readings done by the county were done at the same time as the Village of Waterloo readings. It was estimated that there was a 25% water loss in this district.

Seneca Lake Water:

Jim Bromka sent an email to Supervisor Hayssen recommending that the town consider a proposal from Cindy Stephans to look for water leaks. She gave a per diem rate of \$595, which would estimate to over \$3,000 and it was suggested that Damon Nicholson repair any leaks if found prior to replacing the bolts on the two test hydrants.

Mr. Hayssen reminded the board that a motion was made to hire Damon Nicholson to replace bolts in two of the fire hydrants in this district and suggested the board table the testing for water leaks and to proceed with the replacement of the hydrant bolts. Mr. Bauman will coordinate with Mr. Nicholson and Jim Bromka the two test hydrants to have bolts replaced in.

Mr. Bauman inventoried five Badger meters and some old hardware located in the water building on East Lake Road.

Mr. Saeli suggested that in the future Bill Kolbeck submit a proposal for repair of broken hydrants as it may save the district money.

Mr. Hayssen spoke about refunding the interest that was paid by Seneca County Water a few years back and will look into this matter further.

Water District No. 3: Mr. Bauman reported that he completed an inventory of water meters and related equipment for this district. It was noted that the 2” Sensys meter is designated for the trailer park on Route 336. He reported that he would recommend sending back the 43 K-Style meter insetters if possible. He also reported that the splice kits that were ordered, but misplaced were found in the Fayette Highway Department. He has replaced most of the meters with a sealed meter.

The board received a letter from Cindy Lorenzetti, Supervisor for the Town of Fayette requesting the agreed amount of \$8,188.31 for services and supplies related to this water district. This amount has been submitted for payment to Rural Development in November 2011, but until the amount due the county engineer and other concerns with this district are resolved, we are unsure as to where the money will be coming from. Mr. Hayssen will contact the Town of Fayette as well to determine what fund of the Town of Fayette’s will this money be reimbursing. Any payment was tabled until further research could be completed.

It was also reported that the Town received a Notice of Claim from Syracuse Constructors but no action will be taken on this until Syracuse Constructors responds to the concerns expressed to them by the town.

The Town of Fayette has not resolved the water bill from Seneca County which contains water used for flushing the line or presented an intermunicipal agreement for bookkeeping.

The board received a copy of a letter from Seneca County Attorney, Frank Fisher sent to Midey, Mirras & Ricci in regards to the Fayette Water District No. 5 and Varick Water District No. 3 in response to a letter sent Attorney Ricci. A copy of this letter will be filed with the minutes.

Water District No. 4: Mr. Hayssen reported that we are really close to the top of the funding list.

Varick Sewer District No. 2: It was reported that Yaws responded to two service calls which should be reported in their written report to the town.

General Water & Sewer Business: Mr. McDonald is working on the proposal for an in-house contractor with the necessary equipment to include backhoe and dump truck to complete required work for these districts. Mr. Sipos reported he has provided Mr. McDonald with the requested paperwork from him and told him to plug in the specifications.

It was reported that Mr. McDonald spoke to Fayette’s Supervisor, Cindy Lorenzetti who told him they had the Village of Waterloo under contract to do on site repair work.

Mrs. Russo reported she obtained a business card from David Seeley, Rochester/Finger Lakes Regional Rep. for New York.

Town Clerk's Report: A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to approve the Town Clerk's Report: Supervisor: \$140.00, NYS Ag. & Markets: \$40, Total Disbursements: \$180.00

Supervisors Report: A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to approve the Supervisor's written report.

A motion by Robert Bauman, seconded by Kathy Russo and so carried unanimously to approve Amendment to the Varick General Fund, Resolution No. 1.

Personnel: Mrs. Russo reported that she completed the grant application for the Summer Recreation Program and turned it in.

Assessor: None

Code Enforcement Officer: Mr. Colton reported that he has been requested to present to the District Attorney the original building permit number 10-1385 as completed by Bill Patrick and to verify as such.

Mr. Colton provided the board with a proposed Application for Special Use Permit form which was taken from the Town of Gorham. Mr. Sipos reviewed it and felt that it is a good start but there are going to be occasions that the application will require more detail.

Mr. Saeli questioned whether the Planning Board had reviewed this proposed application as he didn't want to circumvent them. Mr. Colton indicated that he had recommended devising such an application to the Planning Board at a past meeting but no action was taken.

A motion by Robert Bauman, seconded by Kathy Russo and so carried unanimously to approve the Application for Special Use Permit with a \$25 application fee.

Mr. Colton also recommended adding the following to the Zoning Code:

Section 404.3 Procedures for a Certificate of Zoning Compliance; Following the completion of the construction, re-construction, or substantial improvement of any building or where a change in the use of a structure is proposed, the applicant shall deliver to the Varick Code Enforcement Officer a letter stating that such construction has been completed or that a new use has been proposed. Within seven (7) days of the receipt of this letter, the Varick Code Enforcement Officer shall make all necessary inspections of the completed structure and proposed use to determine the conformance with this Ordinance. A certificate of Zoning Compliance shall be issued only if the

Varick Code Enforcement Officer finds that the construction and proposed use comply with all the requirements and provisions of this Ordinance.

Mr. Sipos indicated that this information could be handed out with the Zoning Compliance Permit Application, however, any recommended changes to the Zoning Code has to come from the Planning Board.

Abstract: In reviewing the bills, Mr. Saeli questioned the high cost of fuel oil for the building and will contact Mike Caskey who maintains our system to question the amount of oil we are using and then will contact Griffith Energy. Carol reported that for the AUD Report, they are required to keep track of the heating oil used.

A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to approve Abstract No. 2, Varick Sewer District No. 2, Vouchers SSS12-002 to SSS12-005 in the amount of \$8,825.68, Fire Districts, SFF12-001, SFR12-001 and SFV12-001 in the amount of \$200,504, Seneca Lake Water District, Vouchers SWS12-005 to SWS12-011 in the amount of \$63,861.87, Varick Sewer 1, Vouchers VS112-003 to VS112-007 in the amount of \$3,128.09, Varick Water District No. 1, Vouchers VW112-002 to VW112-003 in the amount of \$6,113.93, Vouchers VW312-002 to VW312-003 in the amount of \$44.27, General, Vouchers A0012-012 to A0012-036 in the amount of \$9,249.58, Highway, Vouchers DAO12-005 to DAO12-013 in the amount of \$4,383.33.

A motion by John Saeli, seconded by Robert Bauman and so carried to approve payment to Timothy Buhl in the amount of \$605.00 from Capital Project Cost for Water District No. 4

Tim Buhl submitted a payee report due him for Water District No. 4 work in the amount of \$19,101.14 which needs to be reviewed.

Minutes: Kathy Russo, using her tape from the January meeting, proposed adding more detail to the information provided in the January 3 minutes regarding Pusmuscan's. Mrs. Karlson reported that she has always been advised by the town attorney and others that it is important when addressing issues that could potentially result in a lawsuit that information in the minutes be kept to the minimum and at the recommendation of the Mr. Sipos, no additional information should be added to the minutes.

Mr. Saeli also pointed out a typographical error in reference to councilman and should have been councilmen. This will be corrected.

A motion by John Saeli, seconded by Robert Bauman and so carried unanimously to approve the January 3, 2012 minutes as presented.

New Business, Old Business, Correspondence:

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to enter into Agreement Between the Town of Varick, New York and the Beverly Animal Shelter,

Inc effective January 1, 2012 and shall expire December 31, 2012 based on the clerk's recommendation.

A motion by Kathy Russo, seconded by John Saeli and so carried unanimously to grant permission for the Musselman Triathlon race to use the Town of Varick roads for this event to be held July 13-July 15, 2012 provided they clean up after themselves.

With regards to the information about South Seneca Ambulance provided to Barry Porsch, District Attorney for Seneca County, by Attorney Sipos, the DA determined that there is insufficient evidence to establish that a criminal offense has occurred. Nor is there sufficient evidence for a grand jury report. He offered no opinion concerning whether a civil wrong has occurred or whether there are civil remedies.

Supervisor Hayssen received a letter from the county manger requesting that Seneca County be able to utilize the Town of Varick's GIS data for a project they are working on with the Seneca County IDA and Fisher Associates. They are doing a computer generated detailed mapping of water and sewer districts in Seneca County.

Mr. Sipos presented a comparison sheet of local town attorney wages for the board's review.

Mr. Hayssen reported that he had received an email from Rebecca Parsons, On Site Project Administrator AGI-Projects which he traced to Canada giving her opinion regarding the proposed puppy mill in the Town of Gorham, currently run by Jolene & Curtis Martin in the town of Varick.

Mr. Hayssen received a letter from the State of New York Office of the Attorney General inquiring if the town had adopted a Code of Ethics which the board did do and a follow up letter will be sent with a copy of the Code.

Mr. Sipos addressed correspondence received and actions taken by the Code Enforcement Officer, Zoning Board of Appeals and Planning Board.

He reported that the town has given Verizon everything that they have asked for and he is unsure as to why they are objecting to the town's approval of the application for permit which was signed by Attorney Robert Burgdorf and submitted to the Town of Varick on Verizon's behalf. The town's zoning ordinance calls for a 300' setback if the tower is over 100' high. The Planning Board has authority over site plans as stated in the Varick Zoning Ordinance and after review of the site plans submitted by Verizon, the Planning Board did grant the variance of the 200' set back as indicated in this plan. Mr. Sipos met with the Zoning Board of Appeals and the Planning Board and they were in agreement with his opinions. Attorney Sipos handed out a draft resolution for the board's review which was not part of the February 7 agenda so was not required to be posted on the town's website prior to this meeting. Mr. Sipos explained that this is not an amendment to the Zoning ordinance, but is a definition as to what the intent was and recommended that the board pass the following resolution:

Resolution of Varick Town Board
February 7, 2012

Whereas the Varick Planning Board, herein after referred to as VPB, was responsible for, and duly authored the Towns existing Zoning Ordinance, herein after referred to as the Ordinance, approved by this Board on April 1, 2010 and further;

Whereas, it was the intent of the PB that in regard to Special Permits, the PB was to have broad jurisdiction including any necessary area variances as included in the application or by separate site plan required by the Ordinance and further;

Whereas, section 311.3 Telecommunication Towers, sub (C) Application and Site Plan Requirements, states that the application to for a special use permit to the PB shall include a site plan setting forth specific site data ..., and further;

Whereas, the Zoning Ordinance as adopted does not empower the Town of Varick Zoning Board of Appeals, herein after referred to as the ZBA, the jurisdiction to revue the PB's granting a Special Use permit, be it;

Resolved that, the Varick Town Board, in approving the Varick Zoning Ordinance, on April 6, 2010, authorized the Varick Planning Board to grant applications for Special Use Permits, which shall include a site plan setting forth specific site data including the location, size and height of the proposed structure. That therefore the intention of the Town Board was to include authority for the Planning Board to grant any area determinations or variances, necessary to accomplish the proposed site plan. And be it further,

Resolved, that it was not the intention of the Varick Town Board, to grant the ZBA the authority, or jurisdiction, to revue the determination of the Varick Planning Board to grant a Special Use Permit, where such determination could nullify said permit. And be it further;

Resolved that the Varick Town Clerk attach a copy of this Resolution to the Varick Zoning Ordinance.

Motion: John Saeli
Seconded by: Robert Bauman
So Carried Unanimously

A motion by Kathy Russo, seconded by Robert Bauman and so carried unanimously to adjourn the meeting at 9:20 p.m.

Respectfully submitted

Donna Karlsen
Varick Town Clerk