

February 2, 2016

The regular meeting of the Varick Town Board was called to order by Supervisor Robert Hayssen at 7:00 p.m. Present at this meeting were Council Members Todd Horton, Kathy Russo, Tom Fox and Richard Peterson, Town Clerk, Donna Karlsen, Bookkeeper, Angela Testa, Town Attorney representative from Midey, Mirrus and Ricci, Emil Bove, Planning Board Representatives, Thomas Bjorkman, Eric Riegel and Barry Somerville, Town of Romulus Planning Board Chairman, Tom Bouchard, Ovid Gazette reporter, Aneita Glover, Hancock, Estabrook, Attorney Wendy Marsh. Also present were Barbara Wells, Diane Potter, Dr. Frederick Riegel, Andrew Herkovic, Cindy Lont, and Michele Hermann.

A motion by Richard Peterson, seconded by Kathy Russo and so carried unanimously to open the public hearing on the Local Law No. 1 2016, Amend the Subdivision Code for the Town of Varick at 7:05 p.m.

Mr. Bjorkman stated that the proposed revisions to the Subdivision Codes promote the ability to be more creative in the shape and size of a lot in a constructive way. It did indicate that these codes will also apply to the Varick property located within the former depot.

A motion by Todd Horton, seconded by Richard Peterson and so carried to close the public hearing at 7:10 p.m.

**Local Law No. 1, 2016:** A motion by Todd Horton, seconded by Tom Fox and so carried unanimously to adopt Local Law No. 1, 2016 to Amend the Subdivision Code For the Town of Varick, Seneca County, New York.

**Privilege of the Floor:** Dr. Frederick Riegel submitted to the board a written notice stating that he is aggrieved by the presumably unlawful recent subdivision of property adjacent to his own property by Keith Perry. Mr. Perry subdivided part of his property and sold it to Kevin Kepner. Dr Riegel stated he has made public appeals to elected and appointed officials, and have been assured that attorneys would contact him to assist in resolving the matter. He indicated that he has heard nothing from anyone at this time and is submitting a written request for appropriate action to proceed and is seeking a remedy under Town Law Article 16, Section 268.2. Mr. Hayssen informed Dr. Riegel that the town has hired Wendy Marsh to look into this matter, who has provided a packet for this board to review.

Barbara Wells, who lives on Secor Road, addressed the board regarding the recent death of a dog owned by the Jensens in January and in her opinion, the poor management of the depot. She reported that approximately three years ago her dog had been caught in a foot hold trap next to a hole in the depot fencing and she contacted DEC Officer Angotti who in turn contacted Steve Absalom. Angotti was informed that James Brown had permission to trap on depot land for coyote, fox and beaver; however she was subsequently contacted by Angotti a few hours later notifying her that trapping on the

depot would be suspended and the hole in the fence would be fixed. Her husband and neighbor went to look at the trap and found that it had been reset and also found a second trap set three foot away from the original one. They removed both traps, contacted Officer Angotti who came and got them and returned them to James Brown. The next day the hole had been fixed in the fence. Based on the Jensen incident, it is apparent that trapping was still gong on up until the Jensen dog was killed.

Mrs. Wells stated she is aware that for the past 15 years the IDA has not ensured the safety of the wildlife in the depot and no food plots have been maintained. She has also been unable to get a straight answer from the IDA who is responsible for maintaining this property and its wildlife. She noted as the result of no food plots being maintained and the arctic cold last year the deer herd, to include Seneca County's white deer, has been decimated. She stated that she is aware that the Board of Supervisors will be considering a motion to take control of this land from the Seneca County IDA and is asking that the board of supervisors vote in support of this motion.

Supervisor Hayssen reported that the IDA has not agreed to sit down and discuss the offer from the IDA to allow the town of Varick to purchase the property for \$1 as offered at a public hearing held at the Romulus Fire Department in August of 2015. They are now requesting the town submit a bid proposal by February 29, 2016. Mr. Hayssen also reported that the National Guard had completed a fly over of the depot property on this date and counted approximately 75 to 80 white deer. He also noted that in order to maintain and grow the white deer heard he felt it necessary to outlaw the hunting of them.

Tom Fox suggested a resolution be proposed expressing the town board's displeasure with the actions of the IDA and the destruction of the white deer herd. He stated he would not want people in the future questioning this board's commitment to the white deer heard and this land's wild life and future development of this land. Mr. Horton stated that he didn't know if a resolution expressing ones displeasure would be effective, but noted that the IDA is aware of this boards concern over the wild life on this property to include the white deer and the town's interest in the land and the road.

Mr. Peterson also expressed his displeasure with the IDA and felt the control of this land should be returned to its respective townships and/or property owners who were forced off of this land when the government took it over in 1942. It was his opinion in any case that the Town can mange this property better then county or state government.

Tom Bouchard, Town of Romulus Planning Board Chairman, reported that the Town of Romulus has decided to step away from the purchase of this property. He reported this decision was based on the town board's review of potential liability and financial issues, recommendations by their town attorney and insurance company. It is their opinion that sufficient oversight of this property will be governed by their town's zoning code and special use permits. He also noted that although their board is supportive of the white deer herd, they did not zone any of the Town of Romulus property within the depot, conversation land. He noted that the Town of Varick has proposed a smaller footprint of land for feeding and maintaining the existing wildlife on this land and feels the

sportsman's clubs in the area would be willing to manage the deer by maintaining feed plots. He also stated that he believes the county taking over this property would be a misstep.

Mr. Peterson would like a letter sent to the IDA once again asking them to reconsider the town's proposal of \$1 to purchase this property prior to the bid opening. It was felt since the IDA offered this property to the town in a public hearing for a \$1, and as the town of Varick has expressed their interest in meeting with the IDA regarding this offer and is of the opinion that home rule should take precedence over the bid processes to outside interested entities, it is important that the IDA grant the town's request to meet with them to discuss this matter.

A motion by Richard Peterson, seconded by Kathy Russo to send a letter to the Seneca County IDA to reconsider the town of Varick's offer to purchase the remaining land from the IDA in the amount of \$1 in accordance with the IDA's invitation to do so at a public hearing held at the Romulus Fire Department.

**Discussion:** Cindy Lont questioned the board if they have also considered the liability and financial issues pertaining to the ownership of this property. Mr. Hayssen explained that this is why the board has asked to meet with the IDA for clarification to some of the board's questions and concerns with regards to this property.

Mrs. Karlsen noted that the board was cautioned by the town attorney, Stephen Ricci, when making their resolution regarding this land, that no proposal to purchase the land for a \$1 be made to the IDA, but to motion that a meeting be set to discuss with the IDA the town's interest in purchasing this land for a \$1 and to get more specifics and answers to their questions and concerns. Based on Mr. Ricci's recommendation the board did not motion to purchase this land, but to meet with the IDA prior to committing to a \$1 offer to them.

Mr. Hayssen concurred that this is what the board had decided and read an email that he received from the IDA requesting that a bid be submitted and it was felt that the IDA would not be willing to meet with the Varick Town Board at this time. Mr. Hayssen also questioned as to what and/or where the funds the IDA received from the sale of the property would go and what would happen to the existing County Road 135, which the town would like to see reopened. It was the hope that if the bid process does move forward, the money would be used to maintain the fencing and road and that the Seneca County Board of Supervisors could hopefully direct the IDA as to how these funds were to be dispersed. Mr. Hayssen explained that if the town were to submit a bid, and obtained this property, an LDC would most likely need to be formed to oversee this project.

Dianne Potter expressed her concern of the loss of the white deer heard and the IDA's overseeing of this property and its wildlife. She also spoke about home rule and to the lawful protection of the white deer and the effectiveness of laws.

Mr. Hayssen reported that Supervisor Steve Churchill will be proposing a resolution at the county level to take over ownership of this land at the next county board meeting to be held February 9<sup>th</sup>. Mr. Hayssen recommended to those who are interested to attend this meeting and noted that several individuals and entities have been put on the agenda to speak regarding this matter.

Discussion was closed and the original motion was amended as follows:

A motion by Richard Peterson, seconded by Kathy Russo and so carried unanimously to send a letter to the IDA to reconsider the town of Varick's request to meet with them to discuss the offer to purchase the remaining land from the IDA in the amount of \$1 in accordance with the IDA's invitation to do so at a public hearing held at the Romulus Fire Department in August.

**Abstract:** A motion by Richard Peterson, seconded by Tom Fox and so carried unanimously approve Abstract No. 2, General, Vouchers A00-16016 to A0016-28 in the amount of \$18,979.83, Highway, DAO16-003 to DAO16-15 in the amount of \$5,735.88, Varick Water District No. 1, VW116-003 to VW116-004 in the amount of \$3,087.16, Seneca Lake Water District, SWS16-004 to SWS16-006 in the amount of \$70,319.65, Varick Water District No. 3, VW316-003 to VW316-004 on the amount of \$3,554.97, Varick Water District No. 4, VW416-004 to VW416-005 in the amount of \$736.77, Varick Sewer District No. 1, VS116-005 to VS116-006 in the amount of \$4,828.50, Varick Sewer District No. 2, SSS16-003 to SSS16-005 in the amount of \$39,817.00.

A motion by Richard Peterson, seconded by Tom Fox and so carried unanimously to approve payment to Municipal Solutions in the amount of \$617.50 from Water District No. 3 Capital Project for financial services to complete Form E to Rural Development as the result of the law suite.

**Water Districts:** Information supplied by Attorney Stephen Ricci and presented on his behalf by Attorney Emil Bove stated that no public hearing would be required in order to raise water rates. An informational public meeting could be held by the board if desired. Mr. Hayssen reported that Seneca County Water Department is looking to raise \$21,156 from the outside districts of the towns of Romulus, Varick and Fayette to offset a deficit due to poor bookkeeping and foresight in maintaining the county's water system. He did note that the county has no plan to complete any repair work at this time. The county has left it up to the districts to determine how to raise this assessed fee to each outside district users. He reviewed proposed increased water charges that would be necessary if the county chooses to pass this increase onto the outside district users. The county will be making a decision on this proposal, and if passed Water District 1 and Water District 3 will have to raise its rates in some manner to offset this cost.

**Water District No. 1:** No new business.

**Seneca Lake Water District:** Mr. Hayssen reported that Cindy Lorenzetti again questioned him about the 50 cent pieces being collected through the sale of water in this district. It was noted again that this district does not assess a separate operation and maintenance fee. Funds raised are used for maintenance and a buffer to offset increased expenses that arise related to the operation of a financially sound water district. It was noted that the fund balance showing currently in this district's account reflects largely from funds generated through the origination of this water district and are intended for up-keep and repairs of the main line and its operation. The district is currently in the process of replacing meters and transponders and continues to investigate the best approach to replacing bolts that are deteriorating and has been determined to be a costly endeavor.

**Water District No. 3:** Attorney Bove provided Mrs. Russo information regarding the disposing of the surplus water pipe from this district. He noted that there is no statute which specifically governs the price which a town must charge when selling surplus materials. However, a general rule to follow is a town must receive fair and reasonable value upon the sale of its surplus personal property, although the actual amount of the consideration is within the discretion of the town board. The open market price of material is normally a good general indicator of what a town should charge when selling surplus. If the fact that the price proposed by the town, as in this instance, is substantially below the market price would seem to suggest that it does not reasonably represent the value of the goods. However, it cannot be said that the price suggested would be improper as a matter of law. The condition of the surplus items must be taken into consideration when setting the value of the goods.

Aneta Glover indicated that a local municipality south of Varick might be interested in purchasing this pipe to be used as culvert pipe under driveways. Kathy questioned what the going rate would be per foot. Mr. Hayssen suggested \$10 per foot, but Kathy will look into this and follow up with Aneta Glover.

**Water District No. 4:** Mr. Hayssen reviewed the fund balance and the financial soundness of Water District No. 4 as of this date and suggested reducing the minimum water fee based on 8,000 gallons to \$5,000 gallons per quarter beginning with the first quarter of 2016.

A motion by Todd Horton, seconded by Kathy Russo and so carried unanimously to reduce the minimum water usage per gallon, per quarter from 8,000 gallons to 5,000 gallons beginning with the first quarter billing of 2016.

A motion by Kathy Russo, seconded by Richard Peterson and so carried unanimously to enter into executive session to discuss potential litigation at 8:00 p.m.

A motion by Kathy Russo, seconded by Todd Horton and so carried unanimously to come out of executive session at 8:15 p.m.

**Varick Sewer District No. 1:** No new business.

**Varick Sewer District No. 2:** Mrs. Karlsen reported she received a phone call from Roger Ross who recently purchased property at 5437 East Lake Road. He indicated that this property is currently not habitable and was questioning if he can have the O/M fee and treatment fee removed from his water bill. It was noted that if he has the water turned off he would not receive a treatment fee and the only way he could have the O/M fee removed would be to tear down the trailer and completely disconnect from the sewer line. Mrs. Karlsen will contact him to let him know his options.

**Highway:** The weather continues to cooperate and plowing and roadwork has been minimal.

**Code Enforcement Officer:** No report.

**Supervisor's Report:** A motion by Todd Horton, seconded by Richard Peterson and so carried unanimously to approve the Supervisor's report.

Mrs. Testa presented engagement letter from Raymond Wager CPA to complete audits for 2014 and 2015 in the amount of \$10,000 to \$12,000 per audit.

A motion by Todd Horton, seconded by Kathy Russo and so carried unanimously to direct Supervisor Hayssen to sign the engagement letters from Raymond Wager CPS to complete the 2014 and 2015 audits in the amount of \$10,000 to \$12,000 each.

Mrs. Russo suggested to the bookkeeper that she look into CD's that are being offered through Generations Bank at a rate of 2% for a limited time only.

Mrs. Testa asked permission to take a class on how to do payroll direct deposit using the current bookkeeping program. She estimated the cost to be \$150.

A motion by Todd Horton, seconded by Richard Peterson and so carried unanimously to approve Mrs. Testa to take a bookkeeping class regarding payroll direct deposits.

**Town Clerk's Report:** A motion by Kathy Russo seconded by Todd Horton and so carried to approve the Town Clerk's report of December 2015; Supervisor, \$100, NYS Ag & Markets; \$11.00, Total Disbursements; \$111.00.

A motion by Kathy Russo seconded by Todd Horton and so carried unanimously to approve the Town Clerk's report of January 2016; Supervisor, \$90, NYS Age & Markets; \$18, Total disbursements; \$108.00.

**Court Security:** A motion by Richard Peterson, seconded by Tom Fox and so carried unanimously to create a position of an armed patrol officer at a pay rate of \$19.75 per hour and to purchase from NYMIR a Law Enforcement Liability Insurance policy.

**Personnel:** Nothing to report.

**Assessor:** Nothing to report

**Minutes:** A motion by Todd Horton, seconded by Richard Peterson and so carried unanimously to approve the minutes of January 5, 2016.

**Dog Control Officer:** Bryan McCann submitted a dog control report from October 12, 2015 to November 20<sup>th</sup>, 2015 for the boards review.

A motion by Todd Horton, seconded by Kathy Russo and so carried unanimously to adjourn the board meeting at 9:10 p.m.

Respectfully submitted,

Donna Karlsen  
Varick Town Clerk