

May 6, 2008

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 Jeff Case, John Saeli, Kathy Russo, and Richard Peterson, Town Clerk, Donna Karlsen, Town Attorney, John Sipos, Highway Superintendent, Richard McCulloch, Code Enforcement Officer, Miles Persing, Jr., and Planning Board, Thomas Bjorkman, and Dog Control Officer, John Vincent. Also present were Peter McDonald, John Sensenig, John Long, Connie Long, Denise Townley, Shelley Pletcher, Dan Pletcher, Jim Hagadorn, Bob McCann, Art Sherman, David Phillips, Jim Somerville, Jr. and Dorothy Hill.

Privilege of the Floor: Bob McCann read a written statement to the board requesting that the board enact the new, more stringent animal control laws regarding the enforcement, boarding, kenneling and the responsibility of owning of dogs in the Town of Varick. He would like to see laws that enforce mandatory unannounced inspections by humane society officers, once dogs are deemed dangerous. He would like to see a leash law, a law that requires more than a microchip and tying up of a dangerous dog. He would also like a fence law. He also expressed his opinion that the town attorney should have been present at the recent dangerous dog criminal case hearing representing the victim. Mr. McCann also applauded Judge Case's ruling in this case.

Mr. Sipos responded to Mr. McCann's comment by presenting opinions from the Attorney General's office stating it is not the responsibility of a town attorney to represent the town in a criminal case. It is the responsibility of the District Attorney's office. He further explained that if the current District Attorney refuses to prosecute the criminal case and the town wants the case prosecuted by an attorney, said attorney must be appointed as special prosecutor by the District Attorney for the criminal case. Mr. Hayssen reported that Robert Mascari offered his services to the town at \$75 per hour to handle the dog cases. Mr. Sipos reiterated that if these dog cases are criminal cases they should be prosecuted by the District Attorney or a special prosecutor appointed by the DA.

The town attorney represents the town in a civil case if for example the dog control officer, who is appointed by the town, were to bring a civil case to the judge. This case would then need to be approved by the Town Board to be handled civilly in order for it to proceed. The civil case would then be the Town versus the person who the judgment would be against and which would result in the town attorney representing the town board.

Discussion was held regarding the town's zoning and how it could be applied to the concerns expressed over animal control in the township.

Peter McDonald read the following to be entered into record:

The draft proposal for the Animal Control and Responsible Pet Ownership Law has, at its heart, the care and well being of pets in Varick. Any domestic pet (cat or dog) must have

inputs of nourishment and protection provided, since they are not able to procure these necessities for themselves. Common sense should dictate that a domestic house pet needs and deserves to be cared for especially since it has such close proximity to human life.

However, the attempt to implement across the board “rule” for all animals, as stated in both the descriptions and regulations contained in the current draft proposal is unfair, unrealistic and unenforceable. A dog problem has been identified. A dog solution should be proposed. To piggy back every vertebrate animal in the Town of Varick into the same kennel as this dog issue is a mistake.

Varick is an agricultural township. All residents would be best served if this dog (pet) issue is handled as a singular issue, which predominantly affects the residents and close neighbors on the lake shore. The thousands of acres of livestock production between the lakes should not be burdened with the same restrictions and controls as domestic pet owners. Adding further unnecessary regulation to livestock raised to produce income for a farmer can only egregiously burden our local farms in an already challenging occupation.

I respectfully ask both the town Planning Board and the Varick Town Board to table this effort until a comprehensive plan dealing with the immediate issue of dog control is more clearly proposed and the current dog problems are effectively handled.

It was suggested that a simple, couple of paragraphs pertaining to the control of dogs be proposed into law, which would be easily enforced.

Dave Phillips, Division of Animal Industry, provided information about the New York State Agriculture & Market laws and how they may affect this case. He specifically reviewed Article 7 and Article 26 of this law, which are the base line to be used throughout the state. These laws can be tailored to individual regions. He also noted that it is not uncommon that a municipality has their own laws pertaining to dogs.

Mr. Phillips and Mr. Sherman reviewed the New York State Pet Dealer Licensing Law that became effective July 2002. In order to comply with this law a facility that sells nine or more dogs and cats per year must apply for a license in order to continue in business unless they qualify under the following exceptions:

1. Duly incorporated humane societies are exempt
2. Breeder who sells less than 25 animals per year, that is born and raised on their residential premises are also exempt.

Following receipt of this application by Ag. & Markets, the applicant will receive an acknowledgement letter and they may continue to operate. Within the next several months, an inspection of the facility will take place to insure that they are in compliance with Article 26-A of the Agriculture and Markets Law.

It was suggested that a letter pertaining to this law be sent referencing Whitley and Corcoran’s operation on East Lake Road. Dan Pletcher indicated that he would write a

letter and would like the Town Board to do so as well. Mr. Phillips indicated that only one letter would be required and it could be submitted by email.

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to have the town send a letter to Ag and Markets asking them to investigate Corcoran & Whitley to see if they should have a New York State Pet Dealer's License.

Mr. Vincent agreed that there is a need for a municipal law within the township, however he reviewed items within the proposed law that he did not agree with and feels should be reviewed further.

It was agreed by the majority in attendance that the problem revolving around the dog issue pertains to responsible pet ownership rather than the dogs themselves.

Mr. Peterson is not willing to act as quickly on the proposed Animal Control law as was the case with the zoning regulations. He also addressed the issue of puppy mills within the Town of Varick and would like to see this addressed as well.

After a lengthy discussion, the proposed law is to be returned to the Planning Board for revisions.

Planning Board: Mr. Bjorkman officially presented the Animal Control and Responsible Pet Ownership Law to the Town Board and reviewed the purpose of this law. It was noted that the Planning Board was not directed by the Town Board to prepare such document, but took it upon themselves to do so.

Mr. Hayssen reported that he received correspondence from Mahlon Goer, Dog Federation of New York, who wrote that the Federation had been contacted by several of their members in the Varick area who were deeply concerned by the proposed animal control ordinance. They stated in this correspondence that they find a number of severe infirmities in its language which will negatively impact many caring and responsible dog and animal owners in Varick. Mr. Hayssen also received correspondence from Jenny McWhoter, Seneca Humane Society SPCA Humane Law Enforcement Agent who submitted suggested revisions to this law. A copy of both these letters will be given to the Planning Board.

This proposed law will be sent back to the Planning Board for review and revisions.

Varick Sewer District No. 2: It was reported that the pump that had been ordered had been received and installed by Yaws.

Mr. Nicholson submitted a written report which will be attached to these minutes.

A request was made by Kozuha's to have the district install a riser on his grinder pump as he is planning on doing some yard work. It was determined that he would be responsible

for the cost of the riser and any associated costs as the work that is being done is not the result of work required by the district.

A motion by Jeff Case, seconded by Kathy Russo and so carried unanimously that any work and related costs associated with altering a grinder pump will be the responsibility of that individual. The work will need to be completed by a certified contractor and a final inspection will need to be done by the town.

Mr. Hayssen reported that he is still working on reducing the rate for sewage treatment.

Seneca Lake Water District: Mrs. Karlsen questioned whether the board wanted to renew the service contracts for the equipment that reads the meters and the program that the readers download to and connects to the billing program. She explained that she spoke to the Village of Waterloo and they are currently not using our programs, but are using theirs under their service contracts. She also spoke to Dan Johnson at Badger Meter who explained that if in the future we wish to reinstate these contracts, Badger would renew them and bring the equipment up to date.

A motion by Jeff, seconded by Richard Peterson and so carried unanimously to suspend the service contracts for the Badger Meter Connect Software and Badger Meter Radix Hardware.

Proposed Route 89 Water: Mr. Hayssen reported that Jason McCormick completed and submitted a map, plan, and report for another engineer's review. Once this review is completed a copy will be submitted to Mr. Hayssen prior to its submittal to Rural Development.

Highway: Mr. McCulloch reported that he would be taking the truck over to be auctioned this week. He also reported that they spent some time cleaning up along the sides of the roads.

Mr. Hayssen will arrange for the dumpsters for Spring Clean Up.

The question arose as to whether the town had public liability insurance. It was felt that we did, but it will be researched.

Assessor: Grievance day will be held May 28th, at the Varick Town Hall from 4:00 to 8:00 p.m.

Town Clerk's Report: A motion by Jeff Case, seconded by John Saeli and so carried unanimously to approve the Town Clerk's report: Total Revenue to Supervisor: \$107.23, Revenue to County Treasurer: \$15.27, State Ag & Markets: \$3.00, State Department of Health: \$22.50, Total Disbursements: \$148.00.

Supervisor's Report: Mr. Hayssen reported that he received a letter from Bonadio Group explaining the status of the 2006 and 2007 audit to outside agencies that may

require a copy of the external audited financial statements for the Town of Varick. Mr. Hayssen reported that he did receive a letter from the Office of the State Comptroller requesting the Financial Reports and will provide a copy of Bonadio's letter to them.

Mr. Hayssen also will be responding to a letter he received from the State of New York Office of the Attorney General with regards to an investigation the State is doing regarding various employment practices of school districts, local governments and special districts.

Activities will be held at the Willard Drug Treatment Center on July 14th and Hillside on May 22 for any board member who wishes to attend. Mr. Hayssen presented the board with the written invitations he received.

Stuart J. Brown Associates is publishing a legal notice in the Reveille Between the Lakes regarding the proposed Fayette/Varick Water District. A portion of this district is located in or near designated wetlands and the purpose of this notice is to advise the public about the proposed action and to solicit comments on the improvements and their impact on the environment and the base floodplain and wetlands.

Bookkeeper: Mrs. Sipos reported the following changes need to be made to the 2008 adopted budget. The term Zoning Officer needs to be changed to Code Enforcement Officer in the following budget Lines: A8010.1, A8010.101, and A8010.4

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to change the term from Zoning Officer to Code Enforcement Officer in 2008 budget lines A8010.1, A8010.101, and A8010.4.

Presently the budget has two accounts with the same number: SSS-8120.41 shows as expense lines for Contractual Audit and Yaws. This should be corrected to read SSS-8110.41, Contractual Audit and SSS-8120.41, Contractual Yaws, and SSS-8120.42 for both AUD and Contractual. This should be corrected to SSS-8110.42 – AUD and SSS-8110.41, Contractual Audit.

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to change the following codes in the 2008 budget: SSS-8110.41- Contractual Audit and SSS-8120.41-Contractual Yaws, SSS-8110.42–AUD and SSS-8110.41- Contractual Audit.

Mrs. Sipos also reported that presently the budget has no account set up to pay the State Comptroller for the fines due to them that Judge Case collects. We receive all his fine money each month and we are billed the portion due to the State Comptroller. Currently the budget reads: A2610 Fines & Forfeited Bail – \$10,000. We need to change the budget to have the following accounts: A2610-Fines & Forfeited Bail - \$22,000 and A1110.41 Cont. State Comptroller - \$12,000.

A motion by John Saeli, seconded by Kathy Russo and so carried unanimously to correct the following line items in the 2008 budget: A2610-Fines & Forfeited Bail - \$22,000 and A1110.41 Cont. State Comptroller - \$12,000.

Mrs. Sipos also submitted the Supervisor's Report of Revenue and Expenditures.

The New York State Retirement System is looking for the number of set hours per month town officials and employees work. It was suggested that the officials and employees keep track of their hours for one month to help establish this information to be put in the form of a motion by the board.

Personnel: Mrs. Russo reported that she received three applications for Director for the Summer Receptions program. She reported that the program will have two youths from work force development and she hasn't received many student applications to this date.

Code Enforcement Officer: Mr. Persing submitted a written report which will be filed with these minutes. He also asked the board to refer any questions and concerns regarding building permits to him. He reported that the junk cars on Ernsburger Road is a work in progress and the trailer on Kings Corner/Mc Duffie Town Road is currently being used for storage and the owner anticipates removing it within the next 8 months to a year. Mr. Persing also reviewed the amount of hours he has had over the past three months and would like to board to consider an increase in pay. The board tabled this till next month to give the request further review.

A motion by Jeff Case, Seconded by Richard Peterson and so carried unanimously to approve the April 1, 2008 minutes.

A motion by Jeff Case, seconded by Richard Peterson and so carried to amend the figure in the April 1st minutes under Abstract, General Account to \$9,641.04.

A motion by Jeff Case, seconded by Richard Peterson and so carried unanimously to approve Abstract 5, Varick Sewer District No. 2 , Vouchers SSS08-10 to SSS08-14 in the amount of \$13,695.84, Seneca Lake Water, Vouchers SWS08-27 &SWS08-28 in the amount of \$18,730.69, Highway, Vouchers DA008-24 to DAO08-30 in the amount of \$8,094.10, and General, Vouchers A0008-57 to A0008-63 in the amount of \$3,184.83.

A motion by Richard Peterson, seconded by Jeff Case and so carried unanimously to adjourn the meeting at 10:20 p.m.

Respectfully Submitted

Donna Karlsen
Town Clerk