

Varick Town Board  
June 3, 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 Attorney, John Sipos, Code Enforcement Officer, Miles Persing, Town Clerk, Donna Karlsen, Planning Board, Bob Kayser, Kevin Swartley and Phil Knapp, Seneca County Advisory Committee on Tourism, Gene Pierce and Joe Gobin and Fred Gaffney, Beverly Animal Shelter, Eileen Franco and Dallyn Jenkins, Dog Rescue Society, Jenny McWhorter and Travis Houser, Dog Rescue Society, Jenny McWhorter and Travis Houser, and NYS Humane Association, Mary Anne Kowahlin. Those who also were in attendance and signed in would be Autumn Gillon, Robert McCann, Doreen McCann, Bill Squires, Joanne Squires Dan Pletcher, Shannon Corcoran, Robert Whitley, Denise Townley, Don Lipker, John F. Long, Connie Long, Fred Conley, Dorothy Hill, Tom Foggo, Ethan Preston, Danielle Eline, and Jim Hagadorn. Please note there were others in attendance that did not sign in.

**Privilege of the Floor:** Mr. Gene Pierce from the Seneca County Advisory Committee on Tourism did a presentation on the state of Seneca County Tourism. He reviewed the programs transition of responsibilities from Seneca County to the Chamber, the trends that they are finding in area tourism, marketing strategies, and program initiatives. It was noted that although the total number of trips to New York State has increased, the lengths of stay are short and getting shorter. Their marketing area is approximately a 300-mile radius around the county and that 43 % of the visitors to Seneca County are from New York State and they have seen a dramatic increase in Canadian visitors over the past 12 to 18 months. He reviewed the marketing efforts and funds to be spent, and program initiatives.

Mr. Gillon handed out to the board plans for his proposed home he wished to build on East Lake Road. The Board of Appeals denied his original building permit and he made reference to the code violations as cited in the Town of Varick's Zoning Code, which was recently adopted December 4, 2007. He expressed his concern over this newly adopted Zoning Code and the restrictiveness of it. Mr. Gillon pointed out to the board that most of the homes that exist within the East Lake Road lake district would not be able to exist with the current zoning.

Mr. Squires, who is an engineer by profession, also expressed his concerns over the restrictiveness of these new codes and cited some examples.

It was noted that perhaps the new zoning should have provided a mechanism over a suggested 6 month to a year time frame that would have allowed the Zoning Board of Appeals to identify problem codes, address them to the Planning Board, and take action in the best interest of the taxpayer and the town.

Mr. Hayssen reviewed his opinion and the concerns of the board at the time this existing Zoning was adopted and feels that the Zoning Code still needs further work and revision.

Mr. Peterson admitted that he made an error in voting in favor of the current Zoning Code and also agrees that it requires further review and revisions. He also is vehemently against the original proposed dog ordinance.

Mr. Sipos reviewed the following steps that are to be taken when preparing to build:

1. Apply for a Building Permit
2. If the building permit is denied, you may file an appeal to the Zoning Board of Appeals
3. If the Zoning Board of Appeal denies the permit it then would go to the judicial level; Article 78.

It was noted that the Zoning Board of Appeal can change their minds if provided with enough information. Mr. Sipos did express his opinion that the Zoning Board of Appeals did make the correct decision based on our current Zoning Code with regards to Mr. Gillon's permit.

Concerns were expressed over identified sections in the zoning and after much discussion the following motion was made:

A motion by Richard Peterson, seconded by John Saeli to hold a public hearing to rescind the current Varick Zoning Code adopted December 4, 2007 and to reinstate the Varick Zoning Code as it existed prior to December 4, 2007.

Discussion: Mr. Hayssen, with the assistance from Mr. Kaiser, will prepare a post card to be sent out notifying the taxpayers of this public hearing. Mr. Case stated that there are regulations within the current zoning code that are good and should be kept. He also recognized that there is regulations that need to be further researched and revised and doesn't feel that the entire code should be rescinded.

It was suggested that a public hearing on the present codes be held to address major concerns, appeal these regulations of major concern and send them back to the Planning Board for further review.

Mr. Kaiser stated that the proper filings and procedures were followed when adopting the new zoning code and noted that the Planning Board provided the board tonight with a definition for a Dock and Seawall, as well as Compliance with County Code with respect to decks to be added to the zoning regulations. Mr. Sipos reviewed the procedure that needs to be taken in order to make revisions or changes to the Zoning Code.

A motion by John Saeli, seconded by Jeff Case and so carried unanimously to call the question.

A motion by Richard Peterson, seconded by John Saeli and carried unanimously to hold a public hearing to rescind the current Varick Zoning Code adopted December 4, 2007 and to reinstate the Varick Zoning Code as it existed prior to December 4, 2007.

Mr. Robert Whitley requested the board to have John Vincent removed as Dog Control Officer. He reviewed with those in attendance the actions that he has taken as well as actions he felt has unfairly been taken against him, Shannon Corcoran and his dogs. No action was taken on this matter.

Rick Conley reviewed his plans, time frame and circumstances pertaining to a dock he is in the process of building. He noted that he was given a stop work order on this project due to the new zoning codes. He is scheduled to appear before the Zoning Board of Appeals on June 16, 2008 and expressed his opinion that his appeal will be denied based on the new zoning regulations. He noted that when this project began, no building permit was required and he was within the prior Varick Zoning Code regulations. He, too, expressed concern over the new code.

Tom Foggo also noted that the new zoning code needs some rectification as a permit was granted and a new dock was built which extends onto his property out in the water. Questions were raised as to DEC regulated setbacks and how the town's permits were going to be monitored and how they are going to be enforced if the proper information isn't provided at the time of application. As the code is written now the Code Enforcement Officer would be required to look closely at property pins and other detailed information in order to issue permits correctly.

It was noted that the Town assumes the information on the building permit is accurate and those submitting the permit will follow the zoning regulation as stipulated using their knowledge regarding their property in order to be in compliance. Mr. Sipos stated that in the case of Mr. Foggo, his neighbor is trespassing and could seek legal council accordingly.

Barb Nearpass, from Docks and Moorings reported that the State has not approved grant funds for this project, but this group would like to continue with their research and have developed a survey form pertaining to the docks and mooring in the participating townships. She is requesting on behalf of Docks and Moorings approximately \$300 to \$350 of funding from the Town to send a post card out to the taxpayers notifying them that volunteers will be completing this survey and may be seen reviewing their property. Mrs. Nearpass reviewed for those in attendance the purpose of the Docks and Moorings Committee and answered several questions and concerns expressed by those in attendance.

A motion by John Saeli, seconded by Jeff Case to rescind the motion which agreed to have the town apply for state grant funding for the Docks & Moorings project and to provide \$2,000 in town funding if the state grant was received.

Discussion: Mrs. Nearpass continued to answer questions and concerns presented by those in attendance. Reasons for this project to continue were given citing examples of

unfavorable cases that have occurred in other lake districts. It was noted that no changes in zoning would take place at this time. The group would be surveying what already exists and is acceptable to those who live on the lakes currently and compiling this information for future reference. No zoning will be implemented without comment from the taxpayer. They are strictly doing research at this point.

A motion by Kathy Russo, seconded by Robert Hayssen and so carried unanimously to call the question.

A motion by John Saeli, seconded by Jeff Case to rescind the motion which agreed to have the town apply for state grant funding for the Docks & Mooring project and to provide \$2,000 in town funding if the state grant was received.

Roll Call:

John Saeli	Yes
Jeff Case	No
Kathy Russo	No
Richard Peterson	No
Robert Hayssen	No
Motion Not Carried	

A motion by Kathy Russo, seconded by Richard Peterson and so carried unanimously to pay up to \$350 for a postcard and postage notifying people of the survey to be completed by the Docks and Moorings Committee and will be reimbursed to the town if the state grant funds are awarded.

A letter dated June 2, 2008 was provided to the board from Seneca County Inter-Municipal Docks and Moorings Steering Committee updating them on the Grant status, progress and plans.

Jenny McWhorter, Dog Rescue Society, presented a Dog Control and Sheltering Agreement for the board to review. The agreement at this time does not have any costs included, but she will work up some figures and provide them to the board.

She also suggested appointing a Peace Officer for the town who would just address animal cruelty cases.

**Planning Board:** Mr. Kaiser passed out the revised draft of the proposed local law regarding Dog Control and Responsible Pet Ownership. He noted that the Planning Board extracted regulations from the most effective laws across the state. This proposed law now exclusively applies to dogs. It was also noted that John Vincent provided suggestions and a dog control ordinance to the Planning Board for their review. Mr. Kaiser reported that The Planning Board's draft is very detailed.

Dr. Sherman provided the board with a copy of extracted dog ordinances from the Town of Wheatland Code and suggested that our proposed code should provide a long term plan and perhaps divide the town into zones when considering the dog ordinance.

As the majority of the board had just received the revised draft, it was suggested that a workshop to include John Vincent, Bob Kaiser, Dr. Sherman and the board members be held to review and discuss this proposed law.

A motion by Jeff Case, seconded by Kathy Russo and so carried unanimously to hold a workshop Wednesday, June 11 at 5:00 p.m. at the Varick Town Hall with Mr. Vincent, Mr. Kaiser, Dr. Sherman and Board members in attendance.

Mr. Sipos reviewed the responsibility of the District Attorney's office to enforce the criminal violations of the NYS Ag & Markets law in the Town of Varick. He also reviewed the steps of a civil case in the Town of Varick. Mr. Sipos would like to see a letter written to the Attorney General's Office asking them to take whatever action is necessary to compel the Seneca County District Attorney to comply with his oath of office. He is willing to write the letter, and will have it prepared by the June 11<sup>th</sup> meeting for board approval prior to it being mailed. He also expressed his opinion that Judge Case has done an excellent job addressing the current dog issues in the town.

**Whereas**, their have been numerous dangerous dog attacks in the Town, and further

**Whereas**, residents of the Town have petitioned the Town Board for assistance before there are serious injuries or death, and further,

**Whereas**, The Town Board, after research of the NYS Ag & Markets Law, determined that it would be appropriate for enforcement of the provisions thereof be as criminal and not civil matters, and further,

**Whereas**, the Town Board has not authorized, or delegated the authority for anyone to commence a civil proceeding on behalf of the Town, and further

**Whereas**, the Town Board has demanded the Seneca County District Attorney to prosecute appearance tickets issued pursuant to the NYS Ag & Markets Law, and he refuses to do so, and further,

**Whereas**, the NYS Attorney General has opinioned that it is the fundamental responsibility of the District Attorney to prosecute criminal violations under Article seven of the NYS Ag & Markets Law, be it

**Resolved**, that The Varick Town Board petitions the NYS Attorney General, Andrew Cuomo to appoint a Special Prosecutor to enforce the criminal violations of the NYS Ag & Markets Law in the Town of Varick or take whatever action necessary to compel the Seneca County District attorney to comply with his oath of office, and be it further,

**Resolved**, that the Varick Town Board plead with NYS Attorney General Cuomo for his assistance before one, or more, of its Town residents are mauled or killed.

Motion by: Jeff Case  
Seconded by: John Saeli  
So Carried Unanimously

**Varick Sewer District No. 2:** It was noted that four people are still not connected to the sewer district and the Seneca County Health Department is to be handling this matter. This matter will be looked into.

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

**Seneca Lake Water District:** Mr. Nicholson also submitted a written water report and noted that he has been busy turning on water services.

**Proposed Route 89 Water:** Jason McCormick has documents for Mr. Hayssen to review and will get them to him.

**Code Enforcement Officer:** He has had six applications for building permits for the month of June. Mr. Persing also stated he would supply the board with a letter of intent regarding his position as Code Enforcement Officer.

**Highway:** Mrs. Sipos reported for Mr. McCulloch that the Ford truck was auctioned and the town received \$8,325 after commission was paid. The department has been paving on Tiperary Street. Mr. Hayssen received a letter from Chesapeake Energy regarding the installation of a 16" steel gas gathering pipeline and will be boring under Town Line Road resulting in no surface damage. He will pass this letter onto Mr. McCulloch for his review.

**Assessor:** Mrs. Morgan supplied a written report and it was noted that the tentative final equalization rate is 93%.

**Town Clerk's Report:** Total revenue to Supervisor: \$734.03, County Treasurer: \$227.95, State Ag & Markets: \$798.00, State Health Dept.: \$22.50, Department of Conservation: \$76.52, Total Disbursements: \$1,859.00

A motion by Kathy Russo, seconded by Jeff Case and so carried to approve the Town Clerk's report.

Mrs. Karlsen reported that the Curtis Martin received a Kennel license as well as 43 individual dog licenses and were very cooperative in supplying all the necessary paperwork.

Mrs. Karlsen also reported that a faxed letter from James Trombino was received regarding the sewer and water connection at the property previously owned by Edith

Schweitzer. This property has been subdivided and is now currently owned by James Trombino and Keenen Family Ltd Partnership. Mr. Trombino is seeking permission to terminate the sewer connection, removing the grinder and associated town property, as well as cap off the water connection at this location.

The board determined that the pump and corresponding pit can be removed and the connection to the water line capped by a certified contractor. He can hire Damon Nicholson to do this work or a certified contractor. Any work done by another contractor other than Mr. Nicholson will need to be inspected by Mr. Nicholson. The owner will be responsible for all associated costs pertaining to this project. It was also noted that he will continue to be responsible for the unit charge fee assessed on the Town and County Tax bill as this property was included in the original formation of the district.

Mr. Swartley questioned if Trombino and Keenen applied for a subdivision permit and if he met the current zoning codes pertaining to subdivision. Mrs. Karlsen reported that no permit had been filed in her office.

Mr. Hayssen will contact Mr. Trombino to review the board's decision regarding the sewer and water connections and to ask him about the subdivision.

**Supervisor's Report:** Mr. Hayssen reported that Ken Pittman would like to discuss wind farms with the board and will send a packet of information to him. He will also contact Bill Larzelere as it was said he had information pertaining to this subject.

The Four Town Historical Society will be holding activities July 14<sup>th</sup> between 5:30 and 7:00 p.m.

The Council on Alcoholism and Addictions of the Finer Lakes provided a Memorandum regarding their annual 2007 report.

Mr. Hayssen reported that he is still continuing his negotiations regarding the sewer rates to Varick Sewer District No. 2 users. He has negotiated a proposed rate of \$42.50 based on 190 users and will be billed to everyone, every quarter. He will continue to negotiate and look at this cost more closely.

Mr. Lester questioned Mr. Hayssen as to whether the new homes along Colonel Drive were given permission to connect and are paying the associated costs to the district. Angel, from the Town of Romulus reported that she had a letter from Mrs. Teichner approving these connections and will provide a copy to Mr. Hayssen. Further research in to this issue will be made.

Mr. Hayssen received a franchise check from Time Warner in the amount of \$7,720.60.

**Bookkeeper's Report:** Mrs. Sipos present a resolution establishing a standard workday for elected and appointed officials to be provided to the New York State & Local Employees Retirement System for their use.

## RESOLUTION

BE IT RESOLVED. That the Town Board be and hereby establishes the following as a standard workday for elected and appointed officials for the purpose of determining days worked reportable to the New York State and Local Employees' Retirement System:

### ELECTED OFFICIALS

Supervisor

3 day work week, 6 hour day  
(72 hrs. per month=12 days reported)

Council Persons

1 day work week, 6 hour day  
(24 hrs per month=4 days reported)

Town Clerk & Tax Collector combined

5 day work week, 6 hour day  
(120 hours per month=20 days reported)

Town Justice

3 days work week, 6 hour day  
(72 hours per month=12 days reported)

Superintendent of Highways

5 day work week, 8 hour day  
(160 hours per month=20 days reported)

### APPOINTED OFFICIALS

Deputy Town Clerk

1 day work week, 6 hour day  
(24 hours per month=4 days reported)

Bookkeeper

3 day work week, 6 hour day  
(72 hours per month=12 days reported)

Attorney

2 day work week, 6 hour day  
(48 hours per month=8 days reported)

Code Enforcement Officer

2 day work week, 6 hour day  
(48 hours per month=8 days reported)

Dog Control Officer

1 day work week, 6 hour day  
(24 hours per month=4 days reported)

Motion: Jeff Case

Seconded: Richard Peterson

So Carried Unanimously



Mrs. Sipos reported that she received the \$100 rebate check for the PC Anywhere program. The written Supervisor's Report of Revenues and Expenditures was presented to the board for their review.

Mrs. Sipos also reported that she received a bill for state taxes that weren't paid in 2006 & 2007 in the amount of \$317.22 which will have to be paid out of contingency.

A motion by Kathy Russo, seconded by Richard Peterson and so carried to pay \$317.22 for 2006-2007 for State Taxes that were never paid.

**Personnel Report:** Mrs. Russo reported that she has completed Romulus Central School's building use form for the Summer Recreation Program. The sign up forms have been handed out and she should have a good idea how many students will be attending by June 13<sup>th</sup>. Her recommendation for the director of the program is Michelle Andrews and Sue Feyerdahl for Assistant Director.

A motion by John Saeli, seconded by Jeff Case and so carried unanimously to hire Michelle Andrews as director and Sue Feyerdahl as assistant director for the Romulus/Varick Summer Recreation Program.

Currently she has hired 6 students who will also work the program. Salaries haven't been set, but Mrs. Russo was reminded that she had to keep within the budget.

Mr. Hayssen reminded Mrs. Russo that the Director must meet with the Youth Bureau regarding this program. She will notify Ms. Andrews.

**Minutes:** A motion by Jeff Case, seconded by John Saeli and so carried unanimously to approve the minutes of May 6, 2008.

**Abstract of Bills:** Mr. Saeli questioned Mr. Nicholson's bill regarding the emergency call outs for the Sewer District. Mr. Case explained that Yaws Environmental is contracted to be on call 24 hours per day for emergency call outs. When Yaws didn't respond, Mr. Nicholson was asked to fulfill Yaws contractual agreement and charged the same rate of pay as Yaws would have received. Mr. Hayssen will contact Yaws to find out why they did not respond. He also recognized the importance of emergency calls being answered and expressed his appreciation to Mr. Nicholson for responding in Yaws place. Mr. Saeli felt this service should have come under Nicholson's agreement and specified rate of pay. It was agreed to process Mr. Nicholson's voucher as submitted and look further into the services provided by Yaws and Nicholson Trucking.

A motion by Jeff Case, seconded by Kathy Russo and so carried unanimously to approve Abstract 6, General, Vouchers A008065 to A0080878 in the amount of \$6,648.01, Highway, Vouchers DA008-31 to DA008-39 in the amount of \$6,873.01, Varick Sewer District No. 2, Vouchers SSS08-15 to SSS08-16 in the amount of \$1,224.79, Seneca Lake Water, Vouchers SWS 08-031 to SWS08-34 in the amount of \$17,658.73.

A motion by Kathy Russo, seconded by Jeff Case and so carried unanimously to hold a public hearing Thursday, June 26<sup>th</sup> at 7:00 p.m. at the Varick Fire House on a resolution to rescind the adoption of the present Town of Varick Zoning Code adopted on December 4, 2007 and to reinstate the Varick Zoning Code as it existed prior to December 4, 2007.

A motion by Jeff Case, seconded by John Saeli and so carried unanimously to adjourn the meeting at 10:55 p.m.

Respectfully Submitted:

Donna Karlsen