

## Varick Town Board

July 10, 2008

The special meeting of the Varick Town Board was called to order by Supervisor Robert Hayssen at 12:05 p.m. Present at this meeting were Council members Jeff Case, John Saeli, Kathy Russo, and Richard Peterson, Town Attorney, John Sipos, Town Clerk, Donna Karlsen, Yaw Environmental, Jerry Smith, and Dan Duddleston, Sewer Maintainer, Damon Nicholson, and a member of the Sewer and Water ad hock committee, Robert Kayser.

Mr. Smith requested a meeting to clarify who was responsible for maintaining the pump station and grinder pumps. It is his understanding that Yaws is contracted to do this work, which makes Yaws liable and no one but Yaws should be responding to these calls unless under their direction. He noted that Mr. Nicholson should notify Yaws or the Town Board who then should notify Yaws of an emergency call out and they in turn are contractually responsible to respond.

Mr. Case stated that Mr. Nicholson, after trying to contact Yaws using the numbers he had, contacted him to see how he wanted to address the emergency call outs. Mr. Case directed Mr. Nicholson to respond, fulfilling Yaws contractual agreement, as Yaws remained unresponsive to repeated calls.

Mr. Hayssen also verified that he spoke to Mr. Nicholson regarding these emergency call outs and directed him to perform the services contracted by Yaws who charges \$300 per emergency call out.

Jerry expressed his concern that his 2005 contract which he is currently working under is costing the district a lot of money and feels they should hire Damon to complete this work and would be willing to be Damon's back up at an hourly rate if needed. He also made the board aware that the proposed 2008 contract that Mrs. Teichner, former Supervisor, provided the board in 2007 was not the correct proposal Yaws supplied her, and the 2008 proposed agreement addressed the anticipated multiple emergency call outs at a lesser charge for each call out, with an increase in the monthly charge. Mr. Hayssen asked if they would consider working under that agreement now. Mr. Smith stated that Yaws would not be interested in working under that proposal as of this date. They also reported that a high percentage of their call outs occur on weekends and holidays.

Mr. Nicholson stated that the agreement he is currently working under does not cover emergency call outs. The board consulted Mr. Sipos on the interpretation of Mr. Nicholson's agreement. Mr. Sipos agreed with Mr. Nicholson that his existing agreement with the Sewer District No. 2 does not cover emergency call outs and the board needs to look historically at how these agreements came into existence, and Yaws has always been contracted to respond to these calls. Mr. Sipos reiterated that emergency call outs is outside of Mr. Nicholson's current contractual agreement.

Mr. Saeli presented a letter he received from Mrs. Teichner providing information as to what to do if the electric should go off as the sewer pumps will not operate and if the grinder pump alarm goes off. This letter directed people to immediately contact Yaw' Environmental , who are used for emergency purposes only and provided cell numbers for Dan and Mike, but did not include Jerry's number.

Mr. Hayssen suggested that once we resolve who will be addressing these emergency call outs, a new information card be sent.

Mr. Kayser suggested logging all calls that Yaw performs whether they charge the district or not and perhaps establish a public works department, and hire someone to complete the necessary work, which he understands the county personnel office would favor. He also indicated that the personnel department has two job descriptions for the sewer and water maintainer filed in their office for review.

Mr. Case suggested that for the future he would like to see a flat rate be charged per year based on prior year call outs and anticipated work required to service the aging system. He agreed with Mr. Kayser and would like all calls logged that Yaws respond to.

Mr. Peterson recognized that the cost of this system is more expensive to run than a gravity fed system and the cost to the residents within this district is going to increase as the result. He would like to see Mr. Case and Mr. Saeli work on specifications for this position. Mr. Peterson questioned if a civil service certification would be required to perform these services. Mr. Smith stated that no certifications are necessary to complete this work. Mr. Nicholson reported that he did have his civil service certification, if one was required.

Mr. Smith and Mr. Nicholson reviewed with the board cost comparisons from other companies who offer the same services as they currently do. These rates were much higher.

Mr. Sipos stated that if the board seeks proposals, they are not required to accept the lowest proposal.

Mr. Nicholson stated that the board needs to develop a position before it goes out for proposals or is offered as a town position.

The board spent the next hour rehashing the same contractual interpretations as was discussed and reported in the July 1, 2008 meeting minutes.

Proposed changes to the contractual agreements between Varick Sewer District No. 2, Yaws and Nicholson Trucking were discussed. No changes were made to either contract, and Yaws will continue to respond to all emergency call outs at \$300 each and will look at hiring Damon to work for them. Mr. Nicholson reported that he will only perform the duties as indicated in his agreement based on the historical background Mr. Sipos referred to and will not respond to any emergency call outs under his agreement.

Mr. Hayssen revisited the \$600 payment made to Mr. Nicholson for the emergency call outs he did at the request of council and to fulfill Yaws contractual agreement when they didn't respond.

Mr. Smith expressed his opinion that Mr. Nicholson should receive the \$600 as he performed the service Yaws is contracted to do at the direction of council and charged the same amount that Yaws would have charged the district if they had responded.

Mr. Nicholson addressed the board as to why there was no action taken to address Yaws lack of response to the emergency call outs and why he is being ridiculed publically for stepping in at the direction of council to fulfill Yaws contractual agreement in an emergency situation and charged the same amount as the district would have been charged if Yaws had responded as stated by Mr. Smith.

Mr. Case and Mrs. Hayssen agreed with Mr. Nicholson's comment and feels Mr. Nicholson should receive the \$600 as Yaws would have if they responded to these calls.

Mr. Peterson agreed that Mr. Nicholson should be paid the \$600 due him, but would like the wording in his contract clarified for future interpretation.

Mr. Saeli did not agree with this and made a motion to adjourn the meeting with a second by Kathy Russo.

Further discussion was held regarding the \$600 payment with no resolution.

A roll call was held on the motion to adjourn with the following result:

Jeff Case:	No
John Saeli:	Yes
Kathy Russo	Yes
Richard Peterson	Yes
Robert Hayssen	No

So carried to adjourn.

Respectfully Submitted

Donna Karlsen