

June 2, 2009

The regular meeting of the Varick Town Board was called to order by Supervisor Robert Hayssen at 7:00 p.m. Present were Council members Jeff Case, John Saeli, Kathy Russo and Richard Peterson, Town Clerk, Donna Karlsen, Bookkeeper, Carol Sipos, Highway Superintendent, Richard McCulloch, Town Attorney, John Sipos, and Bonadio, Jerry Archibald. Also present was Philip Knapp.

Privilege of the Floor: Mr. Knapp presented the following resolution pertaining to the Town of Varick's opposition of land into trust application of the Cayuga Indian Nation which was passed unanimously by the board.

THE TOWN OF VARICK OPPOSES LAND INTO TRUST APPLICATION OF THE
CAYUGA INDIAN NATION

Whereas, the Bureau of Indian Affairs (BIA) has released a Draft Environmental Impact Statement (DEIS) supporting the proposed Fee-to-Trust conveyance of property for the Cayuga Indian Nation (CIN) in Cayuga and Seneca counties in the State of New York, and

Whereas, the DEIS acknowledges that the property in question is on "ancestral land" and therefore not on a current reservation, thus the CIN application is being treated improperly as an "on-reservation" rather than an "off-reservation" application, and

Whereas, the DEIS concludes erroneously that there would be no significant environmental impact if 125+/- acres owned by the CIN were taken into federal trust for the CIN, and

Whereas, when land is taken into trust for an Indian tribe it becomes sovereign territory exempt from local property taxes, special district charges and other fees, thus reducing the revenue of relevant counties, towns, villages, and school, fire, water, and sewer districts, and

Whereas, the DEIS contends incredulously that the CIN has "no plans for further development on the properties subject to the proposed action," and

Whereas, the DEIS has failed to take into consideration the fact that the CIN already owns some 765 additional acres in the counties and intends to buy more with the intent of making future trust applications, and could purchase up to 64,015 acres which would be eligible for trust application, and

Whereas, the DEIS has failed to take into consideration the fact that the' CIN's Lakeside Trading Enterprises have driven other gas stations and convenience stores out of business and severely reduced the profits of others because the CIN has not collected state sales and excise taxes on motor fuel, tobacco, and other products sold, thus also reducing the sales tax revenue of the counties, and

Whereas, the DEIS treats gaming as an existing condition and makes no study of its prior impact or future impact on the community, stating only that "the Nation would provide information to its patrons regarding gambling addiction counseling services available in the area," and

Whereas, the DEIS admits that the sole source of CIN's tribal revenue is its gas station and convenience store businesses and gaming operations but does not acknowledge that the sale of untaxed gas and cigarettes and its gaming operations were both determined to be illegal, and

Whereas, in Table 3.8-27 figures are omitted for the annual amount of purchases outside the counties for cigarettes and gas, apparently for the purpose, of hiding the enormous volume of sales of these untaxed items, and

Whereas, the DEIS states that "No members of the Nation are known to reside in Cayuga County/Seneca County" and that "The proposed action is intended to further the lifestyle, cultural values and objectives of the Nation by advancing the Nation's goals of reestablishing tribal presence in its former homeland, "yet on the very same page (4.8-2) it makes the incongruous statement that "It is not anticipated that members of the Cayuga Nation would relocate to the Project area," and

Whereas, the DEIS reports the median household income of CIN members to be \$26,722; compared to \$37,487 in Cayuga County and \$37,140 in Seneca County, but it makes no mention of the impact the much poorer Cayugas would have on local social services if they did move to the counties, and

Whereas, the DEIS minimizes the costs of road, water, and sewer infrastructure, police and fire protection, and other public services that would be provided to the subject properties without guaranteed reimbursement from the CIN, and,

Whereas, land placed in trust is removed from local governmental jurisdiction in terms of air, soil, and water regulations, zoning and land use regulations, building codes and other community standards, and

Whereas, the DEIS has failed to take into consideration the disruptive practical consequences of checker-boarding sovereign land pointed out by the U.S. Supreme Court ruling in *City of Sherrill vs. the Oneida Indian Nation*, and

Whereas, the DEIS has failed to recognize the U.S. Supreme Court decision in *Carcieri vs. Salazar* which prohibited the Secretary of the Interior from taking land into trust for an Indian tribe, such as the CIN, which was not federally recognized and under federal jurisdiction in 1934, be it therefore

RESOLVED, the Town of Varick rejects the preferred alternative contained in the DEIS and calls upon the BIA to elect the No Action alternative, and be it further

RESOLVED, the Town of Varick calls upon the BIA to reject all further fee-to-trust applications of the CIN in accordance with the *Carcieri vs. Salazar* decision referred to above, and be it further

RESOLVED, a copy of this resolution shall be sent to Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214 so as to be received by July 6, 2009 and be it further

RESOLVED, this resolution shall be presented to the Bureau of Indian Affairs at a public hearing scheduled:

Wednesday June 17th, 2009

6:00 p.m. - 9:00 p.m.

New York Chiropractic College

2360 State Route 89, Seneca Falls, N.Y. 13148

Dated: June 2, 2009

Motion By: Richard Peterson

Seconded By: Jeff Case

Roll Call:

Supervisor Robert Hayssen Yea

Councilman Jeff Case Yea

Councilman John Saeli Yea

Councilman Richard Peterson Yea

Councilwoman Kathy Russo Yea

Carried Unanimously

Mr. Sipos would like to have a copy of this resolution to present to the Seneca County Federation Sportsman Club and Mr. Saeli suggested a copy be given to Romulus Central School for their consideration. A copy of this resolution will be forwarded to the Seneca County Board of Supervisors and Bureau of Indian Affairs.

It was also reported that BIA (Bureau of Indian Affairs) will be holding a public hearing on June 17, 2009 at the New York Chiropractic College

Audit 2007: The board reviewed the draft copy of the 2007 audit presented by Jerry Archibald and formulated a punch list of items to be reviewed by their firm. The capital fund balances was just one item on the punch list. He hopes to have the punch list completed and back to the board for final approval by next week. It was noted that the 2006 and 2007 audits need to be completed so that Mrs. Sipos can do the 2008 AUD report. Rural Development is also requesting copies of these audits for funding purposes.

Mr. Archibald also submitted to Mr. Hayssen a sealed proposal to complete the 2008 audit which will be opened when the board is ready to seek other proposals.

Highway: Mr. McCulloch reported that Spring Clean Up went well. He noted that he has a difficult time communicating with Cassella Waste with regards to the dumpsters. The board approved to have Mr. McCulloch seek a quote from Lyons Road Trash Removal for the fall clean up. A discussion was also held with regards to the location of the clean up and it was decided that holding it at the town hall is most convenient.

Mr. McCulloch received a quote to pave the town hall parking lot at \$6,083.54. This cost will be split between the General Fund and Highway Fund expense accounts. He also reported that he hopes to stone and oil Ogden Road at approximately \$4,000, grind Town Line Road at a cost of \$10,860 and then stone and oil it at an estimated cost of \$10,000, and pave Willers Road at an estimated cost of \$70,000.

Mr. McCulloch reported that Mr. Phil Knapp is planning on retiring the end of August or September of this year and will have 19 years of service. He noted that he is a tremendously unique individual and will be very difficult to replace.

Mr. McCulloch would like to hire someone prior to Mr. Knapp leaving for training purposes and indicated he would like input from the highway committee. The board members did note that the final decision as to who would be hired was up to the Highway Superintendent. The board discussed the hourly rate of pay and benefits and noted that any applications received must be approved by the Seneca County Personnel office. The board decided that the hourly rate of pay would be negotiable and that at this time they would not offer health benefits, but would offer state retirement. It was noted that health benefits can be added at the board discretion.

A motion by Jeff Case, seconded by Richard Peterson and so carried unanimously to authorize Richard McCulloch to seek applications and hire a replacement for Mr. Knapp's position and to negotiate the hourly rate of pay and offer state retirement benefits.

Mr. Peterson attended the Palmyra auction and reported that one year old trucks, that had been cleaned and prepared for sale sold for more than what they were purchased for off of state bid and suggested that the town start turning over their vehicles on a yearly basis. It was noted that trucks should be sent to the Palmyra versus the Lansing auction. The board agreed that Rick's truck should be put in the Palmyra auction, spring of 2010 and the board will need to budget accordingly.

Varick Sewer District No. 2: Mrs. Karlsen reported that there is no one currently doing the "Dig Safely" reports and inspection of new connections. It was suggested that Mr. Kolbeck, Mr. Marr or Mr. Nicholson be approached to complete this work.

A motion by Kathy Russo, seconded by John Saeli and so carried unanimously to have the sewer committee look into hiring someone to do the "Dig Safely" and new installation inspections for Varick Sewer District No. 2.

Mr. Case will contact the suggested people to see if they are interested.

Mrs. Karlsen asked if the board had made any decision as to whether they want the Village of Waterloo to charge for the replacement of frozen meters.

A motion by Jeff Case, seconded by Richard Peterson and so carried to make the Homeowners responsible for the cost of replacing meters that have frozen within their residence.

It was suggested that a memo be put on the homeowner's bill notifying them that they will be responsible for the replacement of frozen meters.

Mr. Hayssen reported that of the \$70 that was being paid to Seneca County Water and Sewer District, \$40 was going to Seneca County Sewer District No. 2 and \$30 was going to Seneca County Sewer District No. 1. There are still discrepancies with regards to the payment Varick Sewer District No. 2 is being asked to pay and Mr. Hayssen asked the board not to approve further payment for the sewer treatment until these issues can be resolved.

A motion by Richard Peterson, seconded by Jeff Case and so carried unanimously not to approve payment of sewer treatment bills from Seneca County Water & Sewer Department until issues regarding this billing is resolved.

Discussion was held regarding extending this line 500 feet to the Sampson State Park line.

Seneca Lake Water District: Mr. Hayssen reported that the Seneca County Water bill is being mailed in care of the Town of Romulus for payment even though the Seneca County Treasurer is responsible for payment of this bill. He would like future billing sent to the treasurer's office, to be reviewed and approved to be paid, prior to them being sent to the Town of Romulus for issuance of the check. He also wants it known that no partial payments will be accepted.

A motion by Jeff Case, seconded by Kathy Russo and so carried unanimously to send future Seneca County water billing to the Seneca County Treasurer.

Mr. Hayssen will also check to see if Seneca County Water District has paid the amount which resulted from the discrepancy in the meter reading which is approximately \$7,000 or if it is still showing pass due on their bill.

Water District No. 1 (Hamlet of Romulus): Mr. Hayssen invited a representative from the Town of Romulus to come and give us an update on this district and to review the current administration agreement between the two towns. Mr. Sipos reported that this district is not a joint district with the Town of Romulus that the agreement is only to administer the Romulus district and Varick's jointly. Mr. Hayssen reported that he spoke to the Village of Waterloo who is willing to do the billing for this district, but wants the bookkeeping in order prior to them taking over.

Mr. Hayssen and Mrs. Sipos have been researching where the approximate \$26,000 fund balance for this district was deposited. Mrs. Sipos spoke with Ada Cool who was the bookkeeper when the administration agreement was entered into and she verified that when the Town of Romulus took over the billing and maintenance of this district, the current board did not feel they were entitled to the fund balance and therefore it was left in this district's account. Mrs. Sipos will continue to research where the fund balance was put once Mrs. Teichner took office.

Mr. Hayssen reviewed the annual cost per the agreement with the Town of Romulus versus what the Varick district is currently paying and what the Village of Waterloo is willing to charge. It was also noted that the Village of Waterloo would do any required maintenance for the district

when needed. Mr. Hayssen reported that currently all payments for water usage in this district is being deposited in a Town of Romulus account, which according to the agreement these payments should be deposited into a Town of Varick account. Mr. Sipos indicated that if the town were to consider terminating this agreement we would need to give a 90 day notice. Given the information provided, it was decided to terminate the current contract with a 90 day notice being given and allow the Town of Romulus to submit a new proposal for services for consideration.

A motion by Jeff Case, seconded by Richard Peterson and so carried to terminate the current agreement with the Town of Romulus and provide a written 90 day termination notice.

A motion by Jeff Case, seconded by Richard Peterson and so carried unanimously to open a separate checking account for deposit of funds collected for Varick Water District No. 1.

A motion by Jeff Case, seconded by Kathy Russo and so carried unanimously to have Mrs. Karlsen and Mr. Sipos write a 90 day termination notice to the Town of Romulus for Mr. Hayssen to sign.

Varick Water District No. 3 (Fayette/Varick): Bill Reemtsen provided a Rural Development Pre-eligibility determination letter to be signed by Mr. Hayssen and a resolution to be presented to the board for approval s follows:

BE IT RESOLVED, that the Supervisor of the Town of Varick, Seneca County, New York, is hereby authorized as the official representative of the Town to execute and submit the application for loan and grant assistance to the USDA Rural Development for constructing improvements for the Fayette/Varick Water Project, and is hereby directed and authorized to act in connection with the submission of the application and to provide such additional information as may be required.

Motion: Jeff Case
Seconded: Richard Peterson
So Carried Unanimously

Mr. Hayssen reported that further paperwork had to be submitted to Rural Development as the result of the State Comptroller's report.

Varick Water District No. 4 (Route 89 water): Mr. Hayssen reported that the Town of Romulus is holding an informational meeting regarding their portion of this waterline. Mr. Hayssen received a letter of predetermination with eligibility from Rural Development and will get more information at a meeting to be held with RD on June 10.

Yale Farm Road Proposed Water Line: Mr. Sipos reported that the town could form a no cost district and agree to buy the water from Seneca Lake Water District if they help fund the extension of the waterline up Yale Farm Road to the Hillside water tower. This will also require a District Formation report which Jason McCormick may be able to provide.

Town Clerk's Report: A motion by Kathy Russo, seconded by Richard Peterson and so carried unanimously to approve the Town Clerk's report: Revenue to Supervisor: \$126.63, County Treasurer: \$5.87, State Ag & Markets: \$3.00, State Health Department: \$22.50, Total Disbursements: \$158.00.

Supervisor's Report: A motion by Richard Peterson, seconded by Jeff Case and so carried to approve the written Supervisor's Report.

Docks & Moorings: Harriet Haynes provided a sample letter that the Docks & Moorings Committee would like to send out at an approximated expense of \$320 which covers the cost of preparation of the letter and postage and would like approval from the board for this expense.

A motion by Kathy Russo, seconded by Jeff Case and so carried unanimously to approve the cost of \$320 for preparation and postage of the docks and mooring letter.

Personnel: Mrs. Russo said they have received some applications for youth councilors and swimming lessons will be offered again through the Youth Bureau. Registration information has been provided to the students for the Summer Recreation program. Mrs. Russo also reported that if the school budget does not pass, the recreation program may have to pay for the use of the school, which might result in not having the program.

A motion by Jeff Case, seconded by Richard Peterson and so carried unanimously to approve the minutes of May 5, 2009.

The board reviewed the bill submitted by Yaws for operation and maintenance and pump repairs prior to its approval.

A motion by Kathy Russo, seconded by Richard Peterson and so carried to approve Abstract No. 6, General, Vouchers A00-09086 to A00-09098 in the amount of \$1,364.65, Highway, Vouchers DA0- 09050 to DAO-09058 in the amount of \$4,410.41, Seneca Lake Water, Vouchers SWS-09026 and SWS-09027 in the amount of \$21,687.73, Varick Sewer District No. 2, Vouchers SSS-09011 and SSS-09012 in the amount of \$4,332.26.

New Business, Old Business and Correspondence: Mr. Hayssen received a resignation letter from Susan Ottenweller from the Planning Board. It was felt that her replacement should come from Route 89 area and it was noted that Lisa Sadlik and Todd Horton might be interested in filling this vacancy.

Flood plan resolution was table for John Sipos to review.

Mr. Peterson reported that those who submitted earlier proposals for the building's security system are still good. He will contact the Town of Covert for information as they have recently installed a security system. Mr. Peterson, after reviewing the pricing, questioned the need for a security system and this subject was tabled for further review.

Mrs. Karlsen reported that we received the insurance check for reimbursement of the repair for the furnace located in the Seneca Lake Water building on East Lake Road and also received payment for the repair of the frozen pipes per Don Hagen's quote. The board agreed to have Don Hagen complete the repair of the frozen pipes per his quote.

A motion by Jeff Case, seconded by Richard Peterson and so carried to adjourn the meeting at 10:25.

Respectfully Submitted

Donna Karlsen
Varick Town Clerk