

A Regular Meeting of the Town Board of the Town of Otsego was held on the 11th day of February 2009 at the Town Building, Fly Creek, NY at 7:00 PM.

Town Board Members Present:

Thomas Breiten Supervisor  
Anne Geddes-Atwell Councilperson  
John Schallert Councilperson  
Meg Kiernan Councilperson  
Bill Michaels Councilperson

Others Present:

Pamela Deane Town Clerk  
Shawn Mulligan Highway Superintendent  
Paul Elkan Town Attorney

Supervisor Breiten called the Public Hearing to order. The purpose of the Public Hearing Breiten explained, was to hear public comment on the proposed Local Law #1 for 2009 allowing the Town Board to appoint alternate members to the Planning Board and the Zoning Board of Appeals.

There were no comments or questions from the public.

MOTION by Councilperson Geddes-Atwell, seconded by Councilperson Kiernan, to close the Public Hearing.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

Supervisor Breiten called the regular meeting to order and asked all those in attendance to please rise for the pledge of allegiance.

Supervisor Breiten announced that the Town Board met and conducted interviews one hour prior to the regular meeting.

Councilperson Kiernan asked that the discussion of seasonal roads be added to the January 14<sup>th</sup> minutes. Councilperson Michaels asked that the date mentioned for the February be corrected as well.

MOTION by Councilperson Geddes-Atwell, seconded by Councilperson Kiernan, to accept the minutes of January 14<sup>th</sup> as amended.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

Supervisor Breiten submitted correspondence for the Board to review.

Supervisor Breiten opened the floor for comments.

John Phillips, of Fly Creek, was not in agreement with the Board's decision last month, giving the Town Highway employees a larger raise than they had negotiated in their union contract. "The economy is tanking." He was skeptical that the sales tax revenue projected by the Town Board in the 2009 Budget will be met.

Supervisor Breiten stated that he received a Contract Agreement from the Susquehanna SPCA. The Contract Agreement was given to Town Attorney Paul Elkan for review.

Supervisor Breiten submitted a financial report. Balances are as follow in the various accounts:

General Savings:	\$ 503,410.18	Highway Savings:	\$ 1,389.08
General Checking:	\$ 60,590.52	Hwy Checking:	\$ 83,470.86
MBIA Gen:	\$ 234,488.12	MBIA Hwy:	\$ 140.31
MBIA Equipment Fund:	\$ 379.55	CD-12month	\$1,000,000.00

MOTION by Councilperson Michaels, seconded by Councilperson Kiernan to accept the financial report as given and make the necessary transfers.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

MOTION by Councilperson Michaels, seconded by Councilperson Kiernan to pay the following bills

GENERAL:	#25-#50	\$ 47,349.69
HWY:	#20-#39	\$ 79,035.99

Before the Town Board voted Supervisor Breiten pointed out that two of the vouchers totaling \$29,000.00 were refunds to the Otsego County Treasurer's Office for overpayment of sales tax revenue to the Town.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

Highway Superintendent Shawn Mulligan read the Highway Superintendents report. Fuel expenses are as follow:

<u>FUEL</u>	<u>GALLONS</u>	<u>TOTAL COST/MONTH</u>	<u>YTD GALS</u>	<u>YTD EXP.</u>
Gas	-0-	\$ -0-	300.0	\$ 356.85
Diesel	3,406.2	\$ 8,114.63	5,285.5	\$ 12,256.53
Heating	2,163.7	\$ 4,247.55	2,846.1	\$ 5,539.96
Svc.		\$ -0-		\$ -0-

Highway Superintendent Shawn Mulligan reported bid results he received earlier that afternoon on a mower tractor. Bid results were as follow:

Springer Inc.	Kubota:	\$41,535
	New Holland:	\$44,905
	New Holland w/cab:	\$52,565
Cazenovia Equipment	5075E John Deere	\$39,900

Mulligan stated that he intends to compare these bids with the NYS bids before rendering a decision.

Mulligan reported that the railroad has not been digging more of the road bank along the Phoenix Mill Road.

Councilperson Michaels asked why “No Thru Traffic” signs have not been placed on Jones Road. Mulligan replied that he intends to put the signs up in the spring. Mulligan was asked by the Board to talk to County Highway Superintendent Ron Tederencill, about the County taking over the Phoenix Mill Road.

Mulligan presented an Agreement for the Expenditure of Highway Money which was reviewed by the Board. This year’s proposed road pavement upgrades are 1.1 miles of Raymond Fish Road and .8 miles of Bissell Road.

After reviewing the agreement Councilperson Geddes-Atwell suggested that in the future the signature page be on the same page of the agreement so there is never a doubt the signatures signed are for that particular document.

MOTION by Supervisor Breiten, seconded by Councilperson Kiernan, to accept the Agreement for the Expenditure of Highway Money as presented.

MOTION CARRIED: Supervisor Breiten and all Councilpersons vote aye.

Town Attorney Paul Elkan stated that under Town Highway Law 205a seasonal limited use highways shall be those town highways without occupied residences or commercial buildings dependent upon such highway as a seasonal limited use highway. It was his professional opinion that the Towns Local Law #1 of 2008 limiting the construction of permanent or year round residences on seasonal town roads would be overturned in court if an Article 78 were filed against the Town. He suggested the Board consider abandoning some of the seasonal roads. The difficulty would be getting *all* adjoining property owners to agree. Elkan also pointed out that the Town is under no obligation to improve the road just because someone has built a residence there. Elkan concluded by stating that there are presently 84 towns in the State of New York that have also adopted this same law. One town is now being challenged and the Association of Towns is awaiting the outcome.

MOTION by Supervisor Breiten, to rescind Local Law #1 of 2008 Limiting the Construction of Permanent or Year Round Residences on Seasonal Town Roads.

There was no second. MOTION DIED.

Zoning Report was submitted by Zoning Officer John Stucin which was reviewed by the Board. Permits were as follow since last meeting:

Fireworks Permit: 1

Councilperson Kiernan reported on the last Watershed Committee Meeting. The topic of discussion was mainly the water level of Otsego Lake. It was agreed that the dam may not be sufficient for practical low flow control of the discharge necessary for the Village Waste Water Treatment Plant operation.

Engineer McManus submitted a draft of the finalized bid documents of the Town Highway addition for the Board to review. Payment options were discussed. It was decided 95% of the payment would given on completion holding back 5% until the punch list was satisfied. Councilperson Schallert suggested that the bid document specify a starting and completion date with a penalty clause if project is not completed on time. McManus made the Board aware that the bid needs to be awarded within 45 days of the opening or it will have to be re-bid.

Fly Creek resident Joe Potrikus strongly recommended that the Board consider using spray foam for insulation. He’s sprayed 6” of foam insulation in the ceiling of his barn and found it extremely energy efficient.

McManus agreed to act as Clerk of the Works. He was asked to submit an agreement proposal for the Board to review at the March meeting

MOTION by Councilperson Michaels, seconded by Councilperson Kiernan, to approve proposed bid package with minor revisions as required by the committee. Bid to be awarded in April.

MOTION CARRIED: Supervisor Breiten, Councilpersons Michaels, Kiernan, and Schallert voted yes. Councilperson Geddes-Atwell voted no.

The Board hopes to award the bid at the April meeting.

Councilperson Geddes-Atwell stated that she and Councilperson Kiernan have been greatly dissatisfied with GrafiQua's services as the Town's website server. They have been completely none responsive. The committee will report back at the March meeting with alternative options.

Town Attorney Paul Elkan reported that he and Village Attorney Martin Tillapaugh are in the process of working out the right-of-way details on Linden Avenue between the Village and the Town. The process requires the signing of a deed and a Resolution from the Town Board which will then be attached to the deed.

MOTION by Councilperson Geddes-Atwell, seconded by Councilperson Schallert, to adopt Local Law #1 of 2009 appointing alternates to the Planning and Zoning Board of Appeals.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

Town Attorney Paul Elkan discussed pension options for volunteer fire fighters serving in the Fly Creek Fire Company. The purpose of the pension was to act as an incentive to get people to join. It was agreed none of the options would achieve that.

MOTION by Councilperson Kiernan, seconded by Councilperson Schallert, to schedule a tire collection day for Town residents May 9<sup>th</sup>, 2009.

MOTION CARRIED: Supervisor Breiten, Councilpersons Kiernan, Schallert, and Geddes-Atwell, voted yes. Councilperson Michaels voted no.

MOTION by Councilperson Geddes-Atwell, seconded by Councilperson Schallert, to go into Executive Session to discuss the interviews.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

MOTION by Councilperson Michaels, seconded by Councilperson Geddes-Atwell, to come out of Executive Session.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

MOTION by Councilperson Michaels, seconded by Councilperson Kiernan, to appoint Edward Hobbie to the Zoning Board of Appeals vacancy (tern expiring 12/31/13) and Joseph Potrikus to the Planning Board Alternate vacancy.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

MOTION by Councilperson Michaels to adjourn.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

Meeting ended at 9:10PM.

The Next regular meeting will be held on March 11<sup>th</sup>, 2009 at 7:00PM at the Town Building in Fly Creek, NY.

Respectfully submitted,

Pamela Deane  
Town Clerk

