

The Otsego Town Board held a regular monthly meeting on the 9th day of May, 2012 at the Town Building, Fly Creek, NY at 7:00 PM.

Town Board Members Present:

Anne Geddes-Atwell	Supervisor
Bennett Sandler	Councilman
Julie Huntsman	Councilwoman
Carl Wenner	Councilman
Langhorn Keith	Councilman

Also Present:

Shawn Mulligan	Highway Superintendent
Michelle Kennedy	Town Attorney
Pamela Deane	Town Clerk

Supervisor Geddes-Atwell called the regular meeting to order and asked all those present to please rise for the Pledge of Allegiance.

MOTION by Councilman Keith, seconded by Councilwoman Huntsman, to accept the minutes of April 11<sup>th</sup>, 17<sup>th</sup> and 25<sup>th</sup> as presented.

Supervisor Geddes-Atwell called for discussion.

Councilman Sandler requested one minor change which was made.

MOTION CARRIED: All were in favor. Minutes accepted as amended

Supervisor Geddes-Atwell read correspondence received since last meeting. Among the correspondence read was:

- A letter from Canadarago Lake Improvement Association President Jane Feisthamel, inviting Town Board members of the Town's of Richfield Springs, Exeter and Otsego, Assemblyman Magee, representatives from the Soil and Water Conservation District and Canadarago Lake Improvement Association Board members to a meeting arranged by Senator Seward's office on May 17<sup>th</sup> at 3:00PM at the old Meadows Building. The nature of the meeting is to discuss the possible Waterfront Revitalization Grant for Canadarago Lake and the future vision for the Canadarago Lake waterfront.
- A letter from the Board of Elections complaining that the Town Building side entrance doors to the meeting room, where they hold voting for district 4, are hard to open. Also they wanted the Board to be aware that an individual tripped and fell on the side walk just outside the entrance during the Primary Election.

Supervisor Geddes-Atwell opened the floor for comments.

Kathleen Chase read a letter signed by her and her husband Thomas Chase and Charlotte Hall. In the letter they respectfully request that the Town Board remove Joseph Galati from Chairmanship of the Town's Planning Board based on the following actions by him, and in connection with his application dated 12/8/2011 to convert the Hickory Grove Inn into a 12 unit Commercial Motel:

- Mr. Galati as recorded in the 2/21/2012 Planning Board minutes, untruthfully told the Planning Board that the Hickory Grove Inn is not on the Historic Register and he could demolish it if he wished to. The address Galati gave on the application was his place of residence not the address of the Hickory Grove Inn.
- Based on Galati's false information to the Planning Board, the Planning Board did not consider conducting a SEQRA Type I action which requires an Environmental Impact Statement.
- Mr. Galati's project requires, according to the Town Land Use Law, a minimum of three acres and his application reveals that he only has 2.33. This requires an area variance from the ZBA which he, as Chairman of the Planning Board and member for many years, should have known.
- The fact that this application was approved in such a short time frame with minimal discussion or fact checking of public comments, was felt to be suspicious.

In closing the Chases and Ms. Hall expressed their concern that Mr. Galati's appearance before his fellow Planning Board members not only created the appearance of a conflict of interest, but also lent an air of unfairness to the proceedings. It was their opinion that the Planning Board's unanimous approval of its Chairman's project was the result of undue influence by Mr. Galati and in violation of the General Municipal Law Procedures.

James Bell referenced an article found in the May 5<sup>th</sup> edition of the Oneonta Daily Star reporting that the Otsego Lake Watershed Committee will be proposing a sewer district on the west side of Otsego Lake at the Town of Otsego Town Board's regular May meeting. Supervisor Geddes-Atwell assured Bell that the Town Board has not discussed such a project with the Otsego Lake Watershed Committee or anyone else.

Bell then submitted a petition from 23 individuals asking for the voluntary resignation of Joseph Galati from the Town of Otsego Planning Board. Bell presented the petition at the last Planning Board meeting but it was not

accept by Galati. Bell believes that the Land Use Law states that anyone given a Special Permit and who is found to be in violation loses all rights to future Special Permits. Bell felt that Galati should be removed from the Planning Board or at the very least removed as Chairman.

Charlotte Hall stated that she has witnessed the demolition that has been going on for months and the number of dumpsters that have been coming and going. During the Public Hearing Galati told the Planning Board that there was no asbestos in the building. The Planning Board was satisfied with Galati's word and did not request to see test results. Hall believes that there is a strong possibility that asbestos exists in the 100 year old building. If she is right Galati put his workers and neighbors at risk.

Marcia D'Amico urged the Board to do the right thing and look into the facts that were brought up to the Planning Board during the Public Hearing but were ignored.

Councilman Wenner made the complaint that at last month's meeting a representative from OCCA was allowed to make a presentation to the Town Board but Edward Hobbie and John Phillips were not allowed to present their finds on gas drilling. He felt that was unfair and did not want to see a double standard exercised during the open floor period of the Town Board meetings.

Councilman Wenner made the complaint that a lot of Planning Board and the Village's time and money was wasted on the site plan review of Linden Avenue Project with the Town Board granting immunity to the Village in the end. He suggested that the Town Board should have an application where an applicant can apply for immunity first to avoid wasted time and money by both the applicant and the Planning Board.

John Phillips urged the Town Board not to leap to conclusions without hearing Joseph Galati's side. Galati's credentials and the quality of the work that he does is substantial. On another note he was not in favor of Councilwoman Huntsman's proposal to limit public comments. Councilwoman Huntsman explained that her initial draft of Protocol for Town Board Meetings was based on an incident that happened at the February meeting. She has since revised her proposal and assured Phillips that public comments will always be welcome.

Phillips hoped that all the progress the Town Planning Board made in regards to the Linden Avenue Project will not go by the wayside when the Town Board granted the Village immunity. The Planning Board had discussed changing the proposed lighting to LED lighting, restructuring the parking lot, changing from parallel parking to head on, storm drainage issues and more directional signage for pedestrians.

Supervisor Geddes-Atwell closed the floor for comments.

Supervisor Geddes-Atwell submitted a financial report. Balances are as follow in the various accounts:

General Savings: \$ 4,669.74	General Checking: \$ 615,494.74
Highway Savings: \$ 7,786.40	Hwy Checking: \$ 574,211.28
Building Reserve Fund: \$150,418.09	
Hwy Equipment Fund: \$ 206,968.95	

MOTION by Councilman Wenner, seconded by Councilman Keith, to accept the financial report as given.

MOTION CARRIED: All were in favor.

MOTION by Councilman Wenner seconded by Councilman Sandler, to pay the following invoices and make the necessary transfers.

GENERAL: #84-#105	\$ 43,640.30
HWY: #57-#71	\$109,400.91

MOTION CARRIED: All were in favor.

Councilman Keith reported attending the last Planning Board meeting. There were no applicants before the Board. A majority of the time was spent discussing the Town Board's action of placing immunity on the Linden Avenue Project and how some people are being treated differently than others. Keith disagreed. As far as he knew most municipalities in every state including New York, are not subject to zoning laws. He told the Planning Board that the Town Board would have liked to see this issue resolved by the Planning Board but a crisis arose when Verizon refused to take down poles where a Stop Work Order had been placed and with that the Town Board decided the crisis needed to be resolved. After much deliberation with both the Village and Planning Board attorneys and review of the Linden Avenue file it was his recommendation to the Town Board to grant the Village immunity from further review. The project was to go forward exactly as requested by the Planning Board to that point. Any changes to the project would not be covered under the immunity and would have to go back to the Planning Board for approval. The Planning Board's comments have not been in vain.

Supervisor Geddes-Atwell added that as the fiscal officer she was not willing to risk the town being sued for contractors being delayed and grant money being lost, all of which would have had to be passed onto the taxpayers. She was grateful for all the time and work the Planning Board had put in the review of the project.

Town Attorney Michele Kennedy stated that she and Councilman Keith went to great lengths to review all key documents in the file. They tried to look at all the key documents as a neutral arbitrator of the Court would view these factual circumstances. DEC had approved the storm drains. The Village's attorney could have raised the zoning immunity issue just as easily as the Town Board. And how would the Court given those key documents, rule if the Village lost their federal funding and sued the Town for damages. In the end, the Town Board decided that it wasn't worth the risk of losing any more grant money or a potential law suit.

Councilman Sandler reported that all issues with County Codes concerning the new Highway Garage, have been resolved and Certificates of Compliances were issued to the Town. The state has inspected the boilers for the buildings and made a list of violations that need to be addressed within 60 days.

Zoning Enforcement Officer Hank Schecher, stated that he has been approached by the Watershed Supervisor Committee to cite residents with failed septic systems on Otsego Lake. Before he does anything he wanted assurance from the Town Board that he has the authorization to do so and if so, has the Town Board's support. He doesn't want to cite people for a failed system and then find that the Town Board doesn't back him up. Councilman Keith told Schecher that if he has a case that looks like it might go to litigation he should give the Town Board the heads up. In any event he felt certain that the Town Board would support him. Attorney Kennedy agreed to research the question as to whether or not the Town Zoning Officer has authority to enforce septic systems on the portion of Otsego Lake located in the Town.

Schecher felt the Town Zoning Map is not clear and needs to be better defined. There is a light blue section on the map that is not identified in the KEY. At the suggestion of the Town Attorney the Town Board agreed to take a look at the map. The Town Clerk who was present at the time the Zoning Map was created, stated that the faint light blue section on the map had no significance. Its not referenced on the map key or referenced in the Land Use Law. The section Schecher is questioning is part of RA-1. The Town Board went with the Town Attorney's suggestion to take a look at the map in the near future and decide whether or not it needs clarification.

Highway report was given by Highway Superintendent Shawn Mulligan.

Fuel expenses for this month are as follow:

FUEL	GALLONS	TOTAL COST/MONTH	YTD GALS	YTD EXP.
Gas	-0-	\$ -0-	874.00	\$ 2,863.84
Diesel	1,114.0	\$ 4,008.46	6,603.7	\$ 24,880.45
Heating	-0-	\$ -0-	-0-	\$ -0-
Svc.		\$ -0-		\$ -0-

Mulligan reported receiving a letter from Tri – Communications which stated that nine of the Town truck radios are obsolete and need to be replaced. Estimated cost was \$5,000.00.

Mulligan informed the Board that all Town road signs will need to be replaced by 2017 with 12inch high reflective signs.

Mulligan stated that the 4x4 International Dump Truck has been ordered.

Councilwoman Huntsman recommended, after much research, that the Town borrow money from West Niagara for the new dump truck.

MOTION by Councilwoman Huntsman, seconded by Councilman Wenner, to contract with West Niagara for the money needed to purchase the 4x4 International Dump Truck.

MOTION CARRIED: All were in favor.

The Board discussed possible amendments to the Town's current Procurement Policy. The proposed changes were given to the Town Attorney for further review.

Supervisor Geddes-Atwell submitted the current Surplus Policy with no suggested changes.

MOTION by Councilman Keith, seconded by Councilwoman Huntsman, to adopt the proposed Surplus Policy as presented.

MOTION CARRIED: Supervisor Geddes-Atwell, Councilmen Sandler and Keith and Councilwoman Huntsman voted yes. Councilman Wenner voted no.

Supervisor Geddes-Atwell submitted proposed minor changes to the Land Use Law which were reviewed by the Board and tabled for the June meeting.

Supervisor Geddes-Atwell recommended that the Town phone service be changed from Cornerstone to Verizon. Further discussion was also tabled until the June meeting.

Attorney Martin Tillapaugh informed the Board the appraisals for the properties under litigation concerning their assessments have arrived. The trial has been scheduled for June.

MOTION by Councilman Sandler, seconded by Councilwoman Huntsman, to go into Executive Session to discuss assessment litigations, the Honey Joe Road litigation and personnel issues.

MOTION CARRIED: All were in favor.

MOTION by Councilman Wenner, seconded by Councilwoman Huntsman, to come out of Executive Session.

MOTION CARRIED: All were in favor.

MOTION by Councilman Wenner, seconded by Councilman Keith, to adjourn.

MOTION CARRIED: All were in favor.

Meeting ended at 10:45PM.

Respectfully Submitted,

Pamela Deane  
Town Clerk