

A Regular Meeting of the Otsego Town Board was held on the 10th day of August, 2011 at the Town Building, in Fly Creek, NY at 7:00 PM.

Town Board Members Present:

Meg Kiernan	Supervisor
Bill Michaels	Councilman
Anne Geddes-Atwell	Councilwoman
Carl Wenner	Councilman
John Schallert	Councilman

Also Present:

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

Supervisor Kiernan called the regular monthly meeting to order and asked all those present to please rise for the pledge of allegiance.

MOTION by Councilman Michaels, seconded by Councilwoman Geddes-Atwell, to accept the minutes of July 13th as presented.

MOTION CARRIED: All were in favor.

Supervisor Kiernan reviewed correspondence she received since last month's meeting.

Supervisor Kiernan opened the floor for comments.

Bibik Rd. resident Marice Winther, asked that the Board to consider paving and adding additional drainage to Bibik Rd. She submitted a petition of names of Bibik Rd. residents also requesting the town pave Bibik Rd. The road is full of pot holes and everyday this creates a lot of dust from the steady traffic of vehicles, especially in the summer. Highway Superintendent Shawn Mulligan stated that he was fully aware of the drainage problem and will try to correct it before Fall.

Marilyn Bridger asked Mulligan to also evaluate the erosion and suggested that a culvert be installed directing surface water toward the existing small stream.

Councilman Wenner submitted an article for the Board's consideration. The article stated that Georgia police shut down a lemonade stand run by three children trying to earn enough to go to a water park. According to police the children lacked permits to operate the lemonade stand. Wenner reiterated once again, that he is strongly in favor of limiting government and felt the Board should be preparing people for relying less on Town assistance anticipating that State and Federal Government will be cutting back on financial assistance to the Town.

Supervisor Kiernan closed public comments.

Town Assessor Marie Walters, as part of her yearly report, submitted a summary of major changes for 2011. After factoring in over 4 million dollars in new construction and renovations along with subtracting out \$534,600.00 from nine property adjustments, the total town assessment is up approximately \$2,666,000.00 from the final roll last year. The Town's current equalization rate is 109.73%. Walters introduced the idea of trending the Town's assessment to get the assessments closer to market values. She will research the cost and make a recommendation at the October meeting. She suspects that the State will not be helping with re-imbursement costs.

Engineer Jonathan McManus reported that the new highway garage had a final inspection from the County Codes Department. He review the few minor violations sited by the inspector. One of the requirements mandated by the inspector was a water test. Councilman Michaels volunteered to have the water tested.

Councilman Schallert felt that the ice build up around the electrical receptacles was caused by sloppy workmanship by the contractor. McManus has contacted Wood Done Right several times by e-mail and letters but has been unsuccessful in getting them to come and correct the problem. Councilman Schallert suggested that Town Attorney Paul Elkan send a strong letter to John McLean, owner and operator of Wood Done Right, and his Bond Company.

McManus assured the Board that the new highway garage was built according to specification. Some of the condensation along the wall, he feels, is caused from the radiant heated floor melting the snow off the trucks which then causes humidity in the building. When all six doors open at once it causes a wind tunnel through the building and the warm air mixing with the cold air condenses and freezes against the metal sheathing. There is a small amount of cold air that is getting in where the metal skirting meets the post causing frost. It was his opinion that the amount of heat loss is not significant and it would not be cost effective to spray foam the areas where the heat loss is occurring. Councilman Michaels felt that even with some heat loss the Town is twenty times ahead heating the new garage then the old highway garage that has no insulation.

Councilman Schallert disagreed that the condensation is a minor problem. His concern was if the condensation continues, the metal sheathing will start to rust. McManus stated that this is a common problem with garages built with these specifications. He stated again that he did not think it was worth spray foaming the walls. It was decided that Elkan will write a letter to John McLean, the owner of Wood Done Right, stating that the Town would like them to reinstall the insulation around the electrical receptacles. The Building Committee will discuss whether or not spraying foaming where condensation is a problem is worth the cost and make a recommendation at the September meeting.

Supervisor Kiernan gave the financial report.

General Savings: \$ 4,665.35.	Checking: \$614,727.95
Highway Savings:\$7,779.10	Highway Checking: \$351,750.03
Building Reserve Fund: \$150,276.94	
Highway Equipment Fund: \$176,455.65	

MOTION by Councilman Michaels, seconded by Councilwoman Geddes-Atwell, to accept the financial report as presented:

MOTION CARRIED: All were in favor.

MOTION by Councilman Michaels seconded by Councilman Wenner, to pay the following general and highway bills and make the necessary transfers:

General:	#156 - #175	\$23,122.38
Highway:	#104 - #123	\$49,981.53

MOTION CARRIED: All were in favor.

Fuel expenses for this month are as follow:

FUEL	GALLONS	TOTAL COST/MONTH	YTD GALS	YTD EXP.
Gas	-0-	\$ -0-	905.5	\$ 2,915.41
Diesel	614	\$ 2,168.95	9,027.0	\$ 31,262.26
Heating	-0-	\$ -0-	-0-	\$ -0-
Svc.		\$ -0-		\$ 1,093.50

Mulligan reported meeting with Mark McGoey and Chris Chandler to discuss the possibility of extending a portion of the un-maintained part of Honey Joe Road. Mulligan stated that McGoey requested extending the un-maintained section much further than the shale bank, as originally requested by McGoey's attorney Lester Sittler, at the July meeting. Mulligan stated that after talking to former Highway employees he believed the upper portion of Honey Joe Rd. has not been maintained or plowed for over forty years and due to that requested that the Town Board abandon the total un-maintained portion of Honey Joe Rd. starting from where John Stucin's house and barn to Panther Mt. Road.

Mark McGoey's Attorney, Lester Sittler, argued that Stucin was given a mining permit which states that it is located on Honey Joe Rd., the Town has been receiving CHIP's money from the State four tenths of a mile more than what has been maintained and, up until two weeks ago there was a Seasonal Road sign in the vicinity of the road. He thought that McGoey was willing to build the road to Donovan Specifications at his expense so long as the Town continues to maintain it and plow it during the winter but without McGoey present at the meeting there was no way to verify that. If the Town chooses to abandon that portion of Honey Joe Road he promised that his client will take the Town to court and there will be another side of the story that will come out.

After a short discussion it was decided, that Mulligan will meet with McGoey one more time and Town Attorney Paul Elkan and McGoey's attorney Lester Sittler will draft a proposal for the Town Board to consider at the September meeting.

Mulligan reported that Eleanor Kallan asked him to trim some dead branches from a maple tree in front of her house located on Kallan Rd. Mulligan stated that he has sent Ms. Kallan a letter denying her request because that section of road is not listed on the Town's inventory. The Town of Hartwick has been plowing the road even though it is located on the Town of Otsego line.

Mulligan stated that he met with the Town of Springfield Highway Superintendent Jeffrey Miles, who informed him that the Town of Otsego can continue over the Springfield line on Vibbard Rd. to the turnaround, but if the Town wishes to go further than the turnaround the Town of Otsego must resurface Springfield's side of Vibbard Rd. before plowing it. Mulligan stated that he has decided to clear the

trees in the 25ft right-of-way in front of Paula Pence, across from George Hymas's house. This, along with using Hymas's driveway, should be enough room to turn a plow truck around.

Mulligan reported that Fork Shop Bridge has been red flagged and closed for the time being. Mill Street Bridge has been yellow flagged. He is awaiting cost estimates from Spectra Engineering for repairing the Fork Shop bridge.

Councilman Michaels requested that the old Highway Garage on County Highway 26 be cleaned out of any and all items the Highway Superintendent wants to keep and the remainder be auctioned off. Fly Creek Fire Chief Michael Thayer informed the Board that the Fly Creek Fire Company is temporarily storing dry hydrant material in the old highway garage and this material should not be confused with items to be auctioned off.

Orlo Burch reported that the Highway Committee met with highway employees. The highway employees would like part-time employees hired for directing traffic at work sites.

Zoning Officer Hank Schecher reported that the Watershed is telling Otsego Lake residents that the Town of Otsego will be sending violation notices to those whose septic systems are not in compliance. Lack of communication between the Watershed and the Town's ZBA and Planning Board has proven to be a problem. The Town of Otsego ZBA and Planning Board have just given approval for an addition to a camp on Otsego Lake, not knowing that their septic system is not in compliance with the Watershed. The Watershed Committee is working on making Zoning Officers aware of what properties' septic systems are not in compliance so in the event they apply for a permit, the permit is denied until they have brought their septic system into compliance.

Permits issued since last month are as follow:

Zoning Permits: 4

Driveway Permits: 1

Site Plan Review: 1

Planning Board member John Phillips, presented the idea that the Town Planning Board have a back-up engineer to review every project at the applicants expense. There was no comment from the Board.

Councilwoman Geddes-Atwell suggested that there be a free energy audit inspection done on the Town Buildings. At the end of the audit the Town will receive an energy report. The consensus of the Board was to authorize Councilwoman Geddes-Atwell to schedule a free energy audit for the Town Building and Highway Garage to see if there is any areas for additional savings.

MOTION by Councilman Wenner, seconded by Councilman Michaels, that the Town of Otsego will require any budget line item that is not contractual in nature or mandated by NYS to be proposed, seconded, and approved by a majority of Town Board members annually, regardless of approval in prior budgets.

MOTION FAILS: Supervisor Kiernan, Councilmen Schallert and Michaels, and Councilwoman Geddes-Atwell voted no. Councilman Wenner voted yes.

MOTION by Councilman Wenner that the Town Board affirms the right of individual citizens codified by the Constitution of the United States of America. Any law of the Town of Otsego not affirming and protecting these rights shall be null and void.

Town Attorney Paul Elkan commented that it is the job of the courts to interpret the Constitution.

MOTION DIES: There was no second.

MOTION by Councilman Wenner that :

I. Any individual or entity applying for funding of any kind from any government, be it federal, state, county, or town for which action by the Town Board of the Town of Otsego is necessary will supply the following, upon request from any member of the Board:

1. A reason for the grant request, including an explanation why the grant is necessary and why, it being necessary, said person or entity is unwilling to spend his own funds.
2. Financial statements from the most recent year available showing that taxpayer funds are necessary and not just convenient.
3. Any other reasonable documentation requested by any member of the Town Board.
4. Any possible relations with any member of the Town Board that may be a conflict of interest.

II. The Town of Otsego will require all members of the Town Board wishing to vote on the disbursements of any and all government grants or other largesse to disclose all instances whereby they received government funds and the amount of such funds. Any one not willing to disclose all such instances must recuse himself from voting on any grants.

MOTION DIES: There was no second.

MOTION by Councilman Wenner Whereas, it is the tendency of government to grow and liberty to shrink, and

even persons of virtue and true intentions are eventually corrupted by power, all elected officials serving on the Town Board or as Supervisor for the Town of Otsego will be limited to two terms in any one office.

Town Attorney Paul Elkan commented that term limits are already covered under the NYS Town Law and can not be superseded by a Town Law or Resolution.

MOTION DIES: There was no second.

MOTION by Supervisor Kiernan, seconded by Councilman Wenner, to go into Executive Session to discuss litigation.

MOTION CARRIED: All were in favor.

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

MOTION CARRIED: All were in favor.

MOTION by Supervisor Kiernan, seconded by Councilwoman Geddes-Atwell authorizing the Supervisor to write a letter to the Attorney General's Office rendering their opinion on Home Rule Law legislation.

MOTION FAILS. Supervisor Kiernan and Councilwoman Geddes-Atwell voted yes. Councilmen Wenner, Schallert and Michaels voted no.

MOTION by Councilman Wenner to adjourn.

MOTION CARRIED: All were in favor.

Meeting ended at 10:15PM.

The next regular meeting will be held at the Town Building in Fly Creek on the September 14th, 2011 at 7:00 PM.

Respectfully Submitted,

Pamela Deane
Town Clerk