

A Regular meeting of the Otsego Town Board was held on the 14th day of September, 2011 at the Town Building, 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 meeting to order and asked all those present to please rise for the pledge of allegiance.

MOTION by Councilwoman Geddes-Atwell, seconded by Councilman Michael, to accept the August 10th minutes as presented.

MOTION CARRIED: All were in favor

MOTION by Councilwoman Geddes-Atwell, seconded by Councilman Weners, to accept the September 1st minutes as presented.

MOTION CARRIED: Supervisor Kiernan, Councilwoman Geddes-Atwell and Councilman Wenner voted yes. Councilmen Schallert and Michaels abstained.

Supervisor Kiernan discussed correspondence received since last months meeting. Among the correspondence was:

- A letter from Sheila Ross asking that the wood pile on the Highway Garage site be disposed of and the grounds tidied up.
- A copy of a letter sent from Town Attorney Paul Elkan to contractor John McLean requesting that insulation around the northwest pedestrian door of the new highway garage be redone. Kiernan noted that McLean did come and correct the lack of insulation problem around the door and light switch.
- A Notice of Claim from Cooperstown resident Tony Pacherille against the Towns of Middlefield and Otsego and the City of Oneonta. Town Attorney Paul Elkan explained that this is a preliminary action to a law suit for a civil matter against a municipality. Pacherille may or may not follow through and file a law suit against the Town.

Supervisor Kiernan open the floor for comments.

Mark McGoey wanted to see if he and the Board could work together on a solution to prepare and maintain Honey Joe Road. It was decided to discuss this matter at a later time during the meeting.

Walter Dusenbury stated that he was there representing the Fly Creek Cemetery to answer any questions the Board may have in response to a letter requesting \$5,000.00 be allocated to the organization in the 2012 Budget.

Sheila Ross stated that when she asked Highway Superintendent Shawn Mulligan, at a well attended meeting on May 11th, not to wash the trucks in front of the new highway garage he agreed not to do so. The water runs into the street leaving her car covered with mud when traveling through. Shortly after Ross stopped and asked Mulligan why he was continuing to wash the trucks in front of the building, Mulligan replied that there is only one water spigot and it is located in the front of the building. After that she attended a 6:00AM highway committee meeting to discuss this problem. It was decided that Mulligan would run a hose to the back of the building to wash the trucks. Ross has talked to Tom Lang at DEC who indicated to her that water resulting from the washing of the Town trucks was not allowed to enter into the street or the Town would be in violation. She has been advised by her attorney to start taking pictures.

In response to Ross's complaint Mulligan stated that he did agree to move the washing of trucks to the back of the building when Ross told him that DEC had informed her that it was illegal that runoff from washing the Town trucks enter into the streets. Mulligan further stated that since then he too had talked to Tom Lane at DEC who referred him to Kevin O'Connor at DEC. O'Connor informed him in writing that runoff from washing Town vehicles with water only was permitted to enter public streets. He gave a copy to Ms. Ross.

Carl Wenner shared two articles that he had read pointing to wasteful governmental spending. The first story talked about a \$20,000.00 grant offered by the Federal Government to Seattle, WA to winterize homes. It created fourteen jobs to winterize only three homes. The second story he referenced reports that a solar panel company named Solyndra, was given a half a billion dollars in loans last year-then filed bankruptcy.

Wenner wanted everyone to understand that this is a Republic not a Democracy. Big difference he said. Our

rights come from God. His theory is that people don't want to acknowledge this because it would limit government from taking rights away and restrict their power. Wenner questioned why Republican Councilmen Schallert and Michaels and Councilwoman Geddes-Atwell did not vote party line on the issue of Fracking.

Sheila Ross felt that the fracking issue is not a Democrat/Republican issue. It's a health issue that both parties are concerned about.

Julie Huntsman felt that the gas drilling issue is bipartisan. Both parties are concerned with protecting the health of the residents and the environment. Huntsman commended the Town Board's action adopting a law prohibiting gas drilling. A lot of people have taken the stand that they are willing to take their chances on being sued to avoid the chance of being poisoned.

Supervisor Kiernan closed the Public Comment session.

General Savings: \$ 4,665.35	General Checking: \$604,381.92
Highway Savings:\$7,776.10	Highway Checking: \$322,746.12
Building Reserve Fund: \$150,276.94	
Highway Equipment Fund: \$176,455.65	

MOTION by Councilman Michaels, seconded by Councilman Schallert, to accept the financial report as presented:

MOTION CARRIED: All were in favor

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

General:	#177 - #192	\$19,760.80
Highway:	#124 - # 135	\$41,573.53

MOTION CARRIED: All were in favor.

Highway Superintendent 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	191.0	\$ 611.33	1,096.5	\$ 3,526.74
Diesel	1,176.0	\$ 4,009.90	10,203.0	\$ 35,272.16
Heating	-0-	\$ -0-	-0-	\$ -0-
Svc.		\$ -0-		\$ 1,093.50

Mulligan addressed Ross's letter complaining about the pile of wood left on the highway garage site by first pointing out that there was a lot of wood left there already when he took office. Secondly, there is no other Town site to bring fallen or dead trees. Highway employees bring wood back to the Highway Garage and are allowed to cut it up on their own time for their own personal use. To let residents on Town property to cut the wood for themselves would open the Town up for liability lawsuit.

Councilman Schallert thought the cut trees should be left along the road for any resident wanting to cut them up and take the wood home. Attorney Paul Elkan made it clear that it is solely at the discretion of the Highway Superintendent to handle this matter however he wants. At Councilman Schallert's request, Elkan agreed to research whether or not the Town could be held liable if residents were allowed to cut the wood brought back to the Town Highway Garage site.

Bibik Road residents discussed options with Mulligan on how the flooding of the road can be corrected. Mulligan agreed to do what he can but let the residents know that there is no sure solution. He also agreed to try to budget for oil and stoning Bibik Road next year to cut down on the dust.

Mulligan requested that the old highway garage adjacent to the Town Office Building be used for cold storage for highway tires and equipment. Storage space was lost at the Cemetery Road Highway Garage when the new employee break-room was created along with additional equipment since purchased.

Councilman Michaels strongly disagreed. The newly built highway garage is much larger than the old garage. He couldn't believe that there is not enough storage space. It was never the intention of continue to use the old highway garage for the highway department.

It was the decision of the Board to meet one hour earlier before the October monthly meeting to inspect the old highway garage and its contents.

Supervisor Kiernan plans to schedule a meeting between the Highway Superintendent and the Fly Creek Fire Chief to discuss coordinating duties and equipment in the event of another major storm.

Mulligan stated that he will be filing for re-imbursement assistance from damage done to Curry Road and tree damage clean up throughout the Town caused during storms Lee and Irene.

Mulligan reviewed the proposed agreement set fourth by McGoey's attorney Lester Sittler at the August meeting whereby McGoey agreed to help re-build Honey Joe Road from where the former Stucin barn up to the shale bank, and the Town in turn would agree to forever maintain it. Both the Town Board and McGoey's Attorney agreed to table further discussion until the October meeting. Mulligan reported meeting with McGoey a few days after the meeting to discuss what materials would be needed to bring the road up to specification. Since then someone has bulldozed the un-maintained portion of Honey Joe Rd. without the Town's permission.

Councilwoman Geddes-Atwell wanted to know what the total cost would be to redo the un-maintained section of Honey Joe Rd. to the shale bank. Mulligan did not have a total estimate.

Councilman Wenner was in favor of abandoning the upper part of Honey Joe Road to Panther Mt. Road but would like to see the Board adopt a Town policy where the Town can opt to adopt a road so long as the road was built in accordance to specifications set by the Town and has been maintained for a certain period of time. Once a policy is adopted he then would like the Town Board to re-visit McGoey's request that the Town take over the road.

Mark McGoey asked if by the Town accepting CHIP's money for that portion of road he would like reopened, and the mining permit for his shale bank states "located on Honey Joe Road" constitutes that the Town is still responsible for maintaining that portion of road.

Town Attorney Paul Elkan answered that all of these things are factored in but it still does not change the fact that the Town has not used or maintained the section of Honey Joe Road past the former Stucin homestead and barn for forty years or better. The law states that if a Town Road is not used or maintained for 6 years it is deemed abandoned without a formal act of abandonment.

Councilmen Schallert and Michaels felt the Town would have a greater financial loss if the Board votes to abandon the un-maintained portion of Honey Joe Road and McGoey sues the Town and wins. The Town would then be forced to re-open the road with no financial assistance from McGoey.

Mulligan requested that the Board abandon the upper un-maintained portion of Honey Joe to Panther Mt. Road.

MOTION by Councilman Wenner, seconded by Supervisor Kiernan, honoring Highway Superintendent Shawn Mulligan's request for abandonment.

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

RESOLUTION ADOPTED: (Resolution Book pg. #94 & #95)

Councilman Michaels reported for the Building and Grounds Committee. Currently at the new Highway Garage the filtration system is still being used. The water test mandated by County Codes for a Certificate of Compliance has not yet been done. Michaels suggested that a 40 gallon hot water heater be purchased and installed. The Board authorized Michaels to purchase and have installed a 40 gallon hot water heater, limiting him to \$500.00. He was also asked to get quotes on installing a water line and outside spigot to the rear of the garage.

Supervisor Kiernan said that she had been approached by a highway employee to buy the old flag pole now laying along side the Town Building. Councilman Michaels wanted the flag pole sold at the auction. There was no further discussion.

Planning Board member Rosemary Craig reported that the Planning Board is still reviewing the Village of Cooperstown Linden Ave. project. The Planning Board feels there have been enough modifications to deem the application a new application. The Village feels the application is a continuation. History has been that when a series of major changes to an applications have been made the application is treated as a new application.

Zoning Officer Hank Schecher plans to talk to Nan Stolzenberg to see if she has in her files from when she assisted the Town in re-writing the current Comprehensive Plan, a copy of the Towns Zoning Map that can be put online.

Dog Control Officer Tom Steele reported receiving 4 calls since last meeting.

Councilwoman Geddes-Atwell reported that the Delta Road Agreement Committee has meet and is discussing issues such as routing, maintenance and repair, security, bonding, communication with the County, axle-load, the number of people needed to be hired to enforce or administrate the agreement and etc.

Councilman Wenner asked the Board to consider the Town having its own Road Use Law. He felt it might be stronger and more effective if the Town had its own Road Use Law rather than joining in with other Towns in the County.

A Budget Workshop was scheduled for 6:00PM Wednesday September 21st.

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

MOTION CARRIED: All were in favor.

Meeting adjourned at 9:40 PM.

The next regular meeting will be held at the Town Building in Fly Creek on the 12th, day of October 2011 at 7:00 PM.

Respectfully Submitted,

Pamela Deane
Town Clerk