

A combined Public Hearing and Regular Meeting of the Town Board of the Town of Otsego were held on the 12th day of November, 2008 at the Town Building, Fly Creek, and NY at 7:00 PM.

Those present were:

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
Martin Tillapaugh	Town Attorney

Supervisor Breiten called the Public Hearing to order. He explained the purpose of the Public Hearing was to hear public comment on the proposed 2009 Town Budget. Before opening the floor for comment Breiten stated that in-spite of the rise of fuel costs and the appropriation for a new highway garage addition the Board was still able to cut the tax burden \$100,000 over last year.

Supervisor Breiten opened the floor for comments. There were no comments from the public.

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

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

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

Councilperson Michaels asked that specific comments he made at the October 10th meeting concerning the Snow and Ice agreement offered by the County, be added to the proposed minutes.

MOTION by Councilperson Kiernan, seconded by Councilperson Geddes-Atwell, to accept the minutes of October 10th as amended.

MOTION CARRIED: Supervisor Breiten and Councilpersons Kiernan, Geddes-Atwell and Michaels voted yes. Because Councilperson Schallert did not attend the October 10th meeting he abstained.

MOTION by Councilperson Kieran, seconded by Councilperson Geddes-Atwell, to accept the October 22nd minutes as presented.

MOTION CARRIED: Councilpersons Kiernan, Geddes-Atwell, Michaels and Schallert voted yes. Because Supervisor Breiten was not present at the October 22nd meeting he abstained.

Supervisor Breiten submitted correspondence for the Board to review.

Supervisor Breiten opened the floor for comments.

Carol Ackin and her sister Marilyn Bradshaw stated their concerns and reasons why, the proposed Walker subdivision now being reviewed by the Town Planning Board should be denied or placed under a moratorium. Some of their concerns are:

- Land Use Law Section 4.04 which address tree cutting along Otsego Lake has been reviewed by the Town Board and Planning Board for revision.
- Goals stated in the Town of Otsego Comprehensive Plan adopted earlier this year specifically refer to protecting view-sheds and maintaining the historical, natural community and rural character” of the Town. One of the first priority recommended strategies is to revise the Land Use Laws and Subdivision Regulations to help achieve the goals, but this has not yet been done.
- Walker’s existing 1600 ft. road does not meet the Town’s Subdivision Regulations.
- Ackin feels there is a conflict of interest with two Planning Board members having either past business dealings with Walker or a similar project being reviewed by the Planning Board but tabled at the moment.

Carl Wenner had the following complaints and concerns:

- Wonders why the Board is so concerned with the environmental impact the salt pile at the highway barn, may have. Salt has been spread all over the County on State, County and Town roads for years. He has never heard of anyone’s well being contaminated with salt.
- Snow and Ice Agreement with the County should have been discussed in the spring. He thought the arguments used not to sign the agreement were absurd. He warned that the first time someone ends up in a ditch because the Town plow trucks drove over 6 inches of snow on the County road with the plow up let it be on Councilperson Michaels head.

- Wenner strongly disagreed with Councilpersons Geddes-Atwell's suggestion to Councilperson Michaels, to attend training on how government finances work. In his opinion Councilperson Michaels is a very successful business man and if he needs training on how the government financial system works that is only more proof that the government financial system is brainless.
- Wenner finds it very disturbing the number of people that go begging the government to restrict other peoples rights. This use to be a free country. If someone has a project you object to then they should buy that property.

Dorothy Fazine a resident of Haggerty Road is upset with the section of Haggerty Road in front of her house which she feels looks awful and is bumpy. All of Haggerty Road was re-done this year except in front of her house.

Highway Superintendent Shawn Mulligan, admitted that initially when Haggerty Road was stone and oiled he was not aware that the section of road in front of her house was part of Haggerty Road. Since then he has re-ditched the sides and blacktopped the surface of road not stoned and oiled. Fazine still was upset with the way the road looked and that it is bumpy. She feels her house is un-saleable because the road is unattractive. Mulligan stated that he has received no other complaints about that section of road but promised that next year if there is any extra stone and oil from another road in that vicinity he will re-do that section of Haggerty Road.

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

General Savings:	\$ 33,383.43	Highway Savings:	\$ 121,293.94
General Checking:	\$ 32,468.61	Hwy Checking:	\$ 68,787.65
MBIA Gen:	\$333,960.11	MBIA Hwy:	\$ 379.17
MBIA Equipment Fund:	\$53,134.80	CD-12month	\$1,000,000.00

MOTION by Councilperson Michaels, seconded by Councilperson Geddes-Atwell, to accept the financial report as given.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye

MOTION by Councilperson Michaels, seconded by Councilperson Kiernan, to pay the following invoices and make the necessary transfers.

GENERAL:	#220-#248	\$ 24,796.27
HWY:	#519-#545	\$135,137.50

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	102.6	\$ 286.66	1,524.6	\$ 4,568.31
Diesel	1,775.1	\$ 5,532.68	15,642.8	\$ 54,142.19
Heating	58.5	\$ 163.86	4,361.0	\$ 12,934.93
Svc.		\$ -0-		\$ 476.00

Mulligan stated that all the FEMA paper work for the completion of Stonehouse and Allison Bridges has been completed and the Town can expect a check in the near future for \$186,000.00.

Mulligan explained that while the highway crew was doing road repairs to the Town Road in Oaks Trailer Park Caroline Staler was directed around the work site area, ran over a rake that came up and broke the side mirror. She presented two repair estimates the lowest being \$247.30.

Town Attorney Martin Tillapaugh stated that it is a question of negligence. After as short discussion the Board felt the negligence was of the Town.

MOTION by Councilperson Schallert, seconded by Councilperson Geddes-Atwell, to reimburse Nancy Stalter for damages to her car mirror.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

It was agreed that the reimbursement check would be sent to Attorney Tillapaugh's office at which time Nancy Stalter will sign a release of satisfaction from the Town before receiving her check.

Mulligan presented a cost/benefit analysis concerning the County Snow and Ice Agreement. He explained that every time the Town plows and or sands County Highway 26 and 28 there is a minimum charge of 2hrs to the County on each road. The actual total time on each road is approximately 40 minutes. The shortest distance to reach the Town roads is over the County Road and Mulligan felt if the Town trucks are traveling over the County Roads anyway the Town might as well take advantage of contracting with the County to plow and sand them. He strongly suggested the Town Board sign the County Snow and Ice Agreement.

Attorney Tillapaugh reported meeting with County Highway Superintendent Ron Tiderencel, asking him the meaning of the statement used throughout the agreement “all in accordance with terms, rules, and regulations”. Tiderencel wasn’t sure. It has been in the contract for a number of years and was willing to amend the agreement by removing the statement.

MOTION by Councilperson Geddes-Atwell, seconded by Councilperson Schallert, to authorize Supervisor Breiten to sign the County Snow and Ice Agreement as amended.

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

The Board requested from Mulligan a fuel cost estimate of running the Town trucks over the County roads with the plows up and with the plows down and alternate routes for the Board to consider when they re-visit the County Snow and Ice Agreement next spring.

Councilperson Michaels asked Mulligan how he knows for sure Mirabito Fuel Group is charging the Town the same price as the County since the Town is under the County Bid.

Mulligan answered that the County bid price is a floating bid meaning the cost will fluctuate. He assured Councilperson Michaels that the Town is being charged the same as the County.

Zoning and Planning report was given by Zoning Officer John Stucin. The following permits have been issued since last month:

Zoning Permits: 1

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

In Town Assessor Marie Walters absence Supervisor Breiten read her report which stated that

Watershed report was given by Councilperson Kiernan. This year’s inspection is completed. A total of 35 inspections are scheduled for next year. There have been 5 no responses.

Councilperson Kiernan stated that she attended the Gateway to Cooperstown meeting which is separate from the Linden Avenue project. State assistance is being sought for improvement to the south entrance to Cooperstown. Parking along the road and landscaping are only a few suggested improvement changes. Estimate cost of the project is 2 million dollars.

It was the consensus of the Board to authorize Supervisor Breiten to write a letter to the County letting them know the Town would like them to spear head the Gateway to Cooperstown Corridor project.

Engineer Jonathan McManus, reported that building providers are reluctant to give out steel cost estimates without a specific plan. He suggested that the Town allow him to draft a bid package for the foundation and addition to send out in January.

MOTION by Councilperson Michaels, seconded by Councilperson Schallert, to expand the scope of McManus’s services to include drafting a bid package for the foundation and addition to the existing Town Barn on Cemetery Road to ready to advertise in January or February 2009.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

Councilperson Kiernan stated that she is still working with Graf Qua to get the website up and running again.

Board of Ethics Member Orlo Burch, reported that he and Councilperson Geddes-Atwell met to reviewed Carl Wenner’s complaint but Wenner refused to leave so they could discuss the complaint amongst themselves. Councilperson Geddes-Atwell discussed the complaint with the Association of Towns. The first complaint against Councilpersons Michaels, Schallert, and Kiernan, having possible conflicts with Jones Road and all should have reused themselves when voting on whether or not Jones Road should be posted “No Thru Traffic”. No conflicts were found. However, Association of Towns felt Wenner had a legitimate complaint with the meeting starting early. No action is needed other than an apology from the Town Board.

MOTION by Councilperson Kiernan, seconded by Councilperson Geddes-Atwell to accept all reports as given.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

MOTION by Councilperson Michaels, seconded by Councilperson Geddes-Atwell, to adjourn for a 10 minute recess.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

MOTION by Michaels, seconded by Councilperson Geddes-Atwell, to resume the meeting.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

MOTION by Councilperson Kiernan, Seconded by Councilperson Geddes-Atwell, to adopt the proposed 2009 Town Budget.

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

Town Attorney Tillapaugh reminded the Board that the CSEA contract with the Town Highway Employees ends the first part of August 2009.

Russ Tiley a representative of Bassett Health Care, asked the Board to consider changing the Land Use Law to allow Bassett to build two, 5,000 sq. ft. two story apartment buildings, (a total then of 20,000 sq. ft.) in GB-2. The proposed buildings would be where the Major League Inn is currently on State Highway 28 in Fly Creek. The apartments would be used to house student's short term. When asked if the property would be taken off the tax rolls Tiley answered "probably yes".

After a short discussion it was the consensus of the Town Board to wait and see if the Planning Board has any recommendations.

The Town Board reviewed recommended Land Use Law changes proposed by the Planning Board. The Planning Board submitted for consideration definition changes for the words Structure and Motel and paragraph changes for Sections 3.15 Heirloom Barns and Buildings, Section 4.04 addressing tree cutting along the shoreline and slopes and Section 7.02 Permits, Certificates and Licenses.

The Board discussed Carol Ackin and her sister Marilyn Bradshaw's concern that the Planning Board is not mandating that the road for the Walker subdivision be built in accordance outlined in the Town's Subdivision Regulations. Road frontage on a private road can only be considered if the private road is built to Donavon Specifications. The Town Board does not mean to intervene or second guess the Planning Board but in the same token felt the concerns brought before them may be valid. Supervisor Breiten thought it might be prudent to try and prevent an Article 78 by having Town Board Attorney Martin Tillapaugh discuss with Planning Board Attorney James Ferrari the Town's Subdivision Law and whether or not he feels it was properly interpreted and the law is being followed.

MOTION by Councilperson Kiernan, seconded by Councilperson Geddes-Atwell, to appoint Town Attorney Tillapaugh to meet with Planning Board Attorney James Ferrari to discuss the interpretation of "Road Specifications" described in the Town's Subdivision Regulations.

MOTION CARRIED: Supervisor Breiten and all Councilpersons, voted aye.

MOTION by Councilperson Kiernan, seconded by Councilperson Geddes-Atwell, to schedule a Public Hearing December 10th at 7:00PM on all the recommended changes submitted by the Planning Board with the exception of Section 4.04 addressing tree cutting on slopes and shorelines.

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

The Board asked Town Attorney Tillapaugh to draft a Local Law outlining the powers and duties of Planning Board and Zoning Board alternate.

Bassett submitted a fireworks permit for New Years Eve for the Boards consideration

MOTION by Councilperson Kiernan, seconded by Councilperson Geddes-Atwell to grant Bassett their fireworks permit.

MOTION CARRIED: Supervisor Breiten and all Councilpersons vote aye.

MOTION by Councilperson Michaels, voted by Councilperson Geddes-Atwell, to go into Executive Session to discuss a personnel issue.

MOTION CARRIED: Supervisor Breiten and all Councilpersons voted aye.

Meeting was adjourned about 10:45Pm.

The next regular meeting will be December 10th, 2008 at 7:00PM at the Town Building in Fly Creek.

Respectfully submitted,

Pamela Deane
Town Clerk