

**MINUTES – TOWN OF ALLEGANY REGULAR BOARD MEETING
THURSDAY, JUNE 9, 2011 7:00 PM TOWN HALL**

PRESENT WERE: Supervisor Eaton Councilman Jonak
 Councilman Sendlakowski Councilman Hitchcock
 Councilman Hare Hwy Superintendent Rodney Gleason
 Attorney Wendy Tuttle Town Comptroller Carolyn Hemphill

ABSENT: Town Clerk Mary Peck

ALSO PRESENT: Town Planner C. Horowitz; H. Larson; R. Kavanagh; Frank DeFiore; D. Sue; R. LaForge; Attorney D. Spitzer; C. Marlatt; J. Crisafulli; P. Winger; M. Giardini and numerous townspeople and guests.

Salute to the Flag at 7:00 pm opened the meeting.

AUDITED CLAIMS

Gen A	\$79,481.67	Hwy DA	\$12,290.52
Gen B	\$22,769.34	Hwy DB	\$31,396.91
Sp Dist	\$ 7,563.80		

MONTHLY REPORTS

Town Clerk	Parks & Recreation
Building & Zoning	Hwy Superintendent

#123-MOTION TO APPROVE MINUTES

Motion by Jonak to approve the minutes from the May 26, 2011 regular Town Board meeting, as written. 2nd by Hare. Jonak-aye, Hare-aye, Sendlakowski-aye, Hitchcock-aye, Eaton-aye. CARRIED

CORRESPONDENCE

1. Association of Towns notice of summer planning/zoning schools.
2. Catt. Co. Planning Board - Part 2 action on site plan review Bona Square.
3. Time Warner Cable – notice of programming changes.
4. Notice of revised outdoor lighting tariff from National Grid.
5. Letter from residents regarding Allegany Cemetery mowing.

NEW BUSINSS

#124-MOTION TO AUTHORIZE SUPERVISOR TO SIGN B.A.N.

Motion by Jonak to authorize the Town Supervisor to renew and sign the backhoe and dump truck B.A.N. at Five Star Bank for \$14,600 on June 24, 2011. 2nd by Hare. Jonak-aye, Hare-aye, Hitchcock-aye; Sendlakowski-aye, Eaton-aye. CARRIED

#125-MOTION TO ACCEPT DON BIGLER'S RESIGNATION AS ZONING BOARD OF APPEALS CHAIRMAN

Motion by Sendlakowski to accept, with regret, the resignation of Don Bigler as Zoning Board of Appeals Chairman. 2nd by Jonak. Senlakowski-aye, Jonak-aye, Hare-aye, Hitchcock-aye, Eaton-aye. CARRIED

#126-MOTION TO APPROVE BI-WEEKLY PAYROLL FOR SUMMER RECREATION WORKERS

Motion by Hare to approve the bi-weekly payment of summer recreation workers. 2nd by Hitchcock. Hare-aye, Hitchcock-aye, Sendlakowski-aye, Jonak-aye, Eaton-aye. CARRIED

- Tabled the request from the Recreation Director regarding room rental at the Fourth & Maple Complex. Councilman Jonak and Councilman Hitchcock will have more information at the next meeting.

#127-MOTION TO APPOINT ASSESSOR

Motion by Eaton to appoint Robin Pearl as Town Assessor effective 7/1/11 through 9/30/2013 at a salary of \$25,000/year, including grievance procedures plus mileage. She will work Tuesdays 9:00 am to 4:00 pm, except in January-February and September – she will work Tuesdays and Thursdays 9:00 am to 4:00 pm. 2nd by Hitchcock. Eaton-aye, Hitchcock-aye, Sendlakowski-aye, Hare-aye, Jonak-aye. CARRIED

#128-MOTION TO APPROVE AMENDMENT TO BONA SQUARE PD DISTRICT

Motion by Eaton:

Whereas, certain modifications to the Bonaventure Square P-D District Development Plan are necessary in order to improve the architectural appearance of the buildings and in order to provide additional flexibility of design,

Now Therefore Be It Resolved:

1. LAND USES, MAXIMUM BUILDING BULK AND HEIGHT of the Development Plan for Bonaventure Square is hereby amended to increase the height for retail, entertainment and restaurant space to a maximum of two stories, **not to exceed 40 feet**. The height of the entrance feature (clocktower) of the entertainment/restaurant building is hereby increased to **a maximum of 60 feet**; however, only the lower two stories shall contain habitable space.
 2. LAND USES, MAXIMUM BUILDING BULK AND HEIGHT of the Development Plan for Bonaventure Square is hereby amended to increase the heights of the apartment and hotel buildings to a maximum of 4 stories, **not to exceed 60 feet**.
 3. LAND USES, MAXIMUM BUILDING BULK AND HEIGHT of the development plan for Bonaventure Square is hereby amended to add the following sentence at the end of the first paragraph: **“Height for all buildings and structures shall be measured from the finished grade at the front of the building to the highest point on the roof”** and to delete all references to height “as measured by the Town’s zoning ordinance”.
 4. PERFORMANCE STANDARD 6c, Buffering and Landscaping, of the Development Plan for Bonaventure Square is hereby amended to read in its entirety:
 “Adequate buffering, to the satisfaction of the Planning Board, shall be provided between the site and abutting properties. This will include fencing around the perimeter of the P-D District where it abuts property in the R-1 Zoning District. Landscaping shall be provided, where possible. For the Bonaventure Square development, the Planning Board may approve a fence of up to eight (8) feet in height. **However, in order to retain mature existing vegetation on the Bonaventure Square property, which provides an adequate buffer between the Development and the abutting residences, the Planning Board may waive the requirement for fencing upon the written request of the abutting property owner. If the fencing requirement is waived, the site plan approval shall contain a condition that the landscaping shall be replaced as necessary, with similar trees or fencing, in order to provide a permanent buffer.**”
 5. PERFORMANCE STANDARD 4f, Utilities, of the Development Plan for Bonaventure Square is hereby amended to read in its entirety:
 “Prior to site plan approval for each phase of the development, the developer shall provide **data on the actual required fire flow for each building and compare that requirement with the available fire flow on site. The applicant shall demonstrate to the satisfaction of the Town’s Water Superintendent and Town Engineer that the actual fire flow is adequate to meet the required fire flow.** If necessary, measures to provide adequate fire flow shall be provided by the developer.
 6. This amendment is effective immediately.
- 2nd by Hare. Eaton-aye, Hare-aye, Jonak-aye, Sendlakowski-aye, Hitchcock-aye. CARRIED

- Mr. Spitzer explained to the Board how and why a Community Economic Development Corporation could be set up. He told the Board that there could be no tax dollars used in establishing and maintaining a CEDC. All funding would have to come from grants or other funding sources. Councilman Hare introduced Wayne Hawley. Councilman Hare and Councilman Sendlakowski have met with Mr. Hawley to discuss bringing broadband to the Town. There was much discussion between the Board, Mr. Spitzer, and Mr. Hawley concerning this issue.
- Tabled the Foit-Albert water model issue until Attorney Tuttle talks to the Town Engineer.

UNFINISHED BUSINESS

- Town Cemeteries – tabled for next meeting

#129-MOTION TO APPROVE HODGSON – RUSS ATTORNEYS AT LAW

Motion by Jonak to hire the law firm of Hodgson-Russ at a cost, not to exceed \$3,000, to advise on developing broadband communications and creating a Community Economic Development Corporation. 2nd by Eaton. Jonak-aye, Eaton-aye, Sendlakowski-aye, Hare-aye, Hitchcock-aye.

CARRIED

#130-MOTION TO HIRE ONE TEMPORARY SUMMER WORKER IN THE HIGHWAY DEPARTMENT

Motion by Hare to hire one temporary summer laborer in the highway department. The laborer will work 40 hours per week for a maximum of eight weeks at \$9.00/hr. 2nd by Hitchcock. Hare-aye, Hitchcock-aye, Sendlakowski-aye, Jonak-aye, Eaton-nay. CARRIED

COMMITTEE REPORTS

- Supervisor Eaton reported that the Allegany Post Office will not be closing. All that will be leaving this site will be the bulk mail services – the retail service will remain.
- Councilman Sendlakowski reported that they have almost all of the figures needed to apply for the grant for the Five Mile Cemetery.
- Councilman Jonak asked about the request from Jerry Dzuroff concerning the Town allowing payments by credit and debit cards. It was decided that the Town Clerk and the Town Comptroller will look into this matter and report back at the next meeting.
- Attorney Tuttle said that she had talked to the Village Attorney, Janine Foder about combining the Town and Village courts, planning boards, and zoning boards. They both would like to see a committee set up to explore this issue. Supervisor Eaton and Councilman Hitchcock volunteered to represent the Town on this issue.
- Attorney Tuttle is still working on water agreement with the Village. She will meet with Water Superintendent Gleason to discuss any issues he has with the draft agreement.

FROM THE FLOOR

- Ron Kyser – Against re-locating Rec. Dept. to Fourth & Maple and against hiring a temporary worker in the Hwy. Dept.
- Rick Kavanagh – Against re-locating Rec. Dept. to Fourth & Maple. Would like to have both the cemetery motion and highway motion redone so that “if it rains that day – the temporary workers get sent home”.
- Ray Mosman – Pro broadband but would suggest a survey to see how many people would use it before spending a lot of money on it.
- Ron Kyser – Pro broadband.
- Karen Mosman – Stated she works in the school system and there is no discipline for the kids and therefore no consequences for their actions.

- Kathy Boser – Presented a letter from the anti windmill group.
- Tom Stetz – Questioned reasons for going into executive session. Would like clarification as to why the Board is going into executive session.
- Attorney Dan Spitzer – Believes that it's a matter of the wording. The Board is meeting with legal counsel to discuss what can be in a host agreement and legal advice about a host agreement – they are not meeting to discuss whether to enter into an agreement or not. Mr. Spitzer explained that the Board is not actually going into “executive session” but rather it is an “adjournment to seek legal advice”. This is an exception to the open meeting law.
- Dave Koeblin – Stated that in a recent newspaper article it said that the public would be updated as to where the Board was at with negotiations with Everpower and he believes that is why there were so many people present tonight.
- Dave O'Dell – Asked what route Everpower would use because it stated in the paper that Kevin Sheen had met with Mayor Linda Witte and told her they would not be using City of Olean streets.
- Pat Miller – Asked the Supervisor if he was asking for money from Everpower for noise. She also asked about the decommissioning.
- Dave Koeblin – He believes the DEIS and the FEIS both state that the preferred route is through the City of Olean.
- Kathy Boser – Stated that if they plan to use Chipmonk Rd. – that road is posted for weight limits.
- Carol Horowitz – Stated that The Olean Times Herald also indicated that the Planning Board would be making a decision on the windmills at their June 13th meeting. She stressed they would **not** be making a decision.
- Ray Mosman – Asked if broadband was made available to him – would he be able to receive it if the wind turbines were constructed in Chipmonk.
- Karen Mosman – Asked the Board that with all the questions being asked- how they could even consider making a decision by August.
- Melissa O'Dell – Asked the Board if they had any input into the ads that Everpower published in the Olean Times Herald.

#131-MOTION TO ADJOURN TO SEEK LEAGL ADVICE

Motion by Jonak to adjourn to seek legal advice concerning the Town's host agreement with Everpower. 2nd by Hitchcock. Jonak-aye, Hitchcock-aye, Sendlakowski-aye, Hare-aye, Eaton-aye.

CARRIED

Regular meeting adjourned at 8:32 PM.

#132-MOTION TO ADJOURN EXECUTIVE SESSION AND ENTIRE MEETING

Motion by Sendlakowski to adjourn executive session and entire meeting. 2nd by Hitchcock. Sendlakowski-aye, Hitchcock-aye, Jonak-aye, Hare-aye, Eaton-aye. CARRIED

Entire meeting adjourned at 9:00 PM

Respectfully submitted,

Carolyn Hemphill
Acting Secretary