

MINUTES OF THE SMITHVILLE TOWN BOARD

March 19, 2012

The regular meeting of the Smithville Town Board was called to order at 6:30pm by Supervisor Fred Heisler Jr. Present were the following

Supervisor Fred Heisler Jr.

Board members

Elizabeth Vanderweyde

Bob Whitmore

Karl Ludwig

John Cammarata

Town Clerk Alison Owens

Highway Sup't Bruce Kinney

Justice Ben Kehl

Planning Board Chair Jackie Centerwall

DCO Christine Stark

Carol Omalyev, Mr. & Mrs. Dorsey, Dylan Huff,

Karen Ludwig, Darin Mills

ADDITIONS/DELETIONS: speed limit sign request by Darin Mills

CORRESPONDENCE

C1: letter from Haefle TV advising of basic cable rate increase effective Apr. 1, 2012

C2: certificate of liability insurance for Haefle TV, Inc.

C3: notice of NYS ACH payment of \$4876.61 (2 notices) This appears to be a 1<sup>st</sup> installment of payments expected from FEMA; Highway Sup't Kinney noted these are released by project.

C4: letter re: gas drilling from Susan Dorsey requesting time to formally present an argument in favor of gas drilling.

C5: letter from Blue Ox requesting notification by email of upcoming fuel bid proposals.

PRESENTATION BY DAVID CRAINE OF MIRABITO INSURANCE

A presentation by David Craine of Mirabito Insurance was given. The current year and proposed year policies are with Selective Insurance; the Cincinnatus Lake Dam is covered for liability. NYMIR and Trident were not quoted because of lack of information on the Cincinnatus Lake Dam. Confirmation would need to be made that the work quoted in the Nov. Dam 2011 report was done as requested and that there is an Emergency Plan of Action for the Dam.

The equipment schedule was reviewed. 5 years or newer can be insured for replacement cost, but can go 5-10 years. The Chenango Co. Intermunicipal agreement is covered. A schedule of motor vehicles and drivers was also reviewed. There is also the Public Officials liability with excess limits on Town Clerk/Tax Collector, Supervisor and Town Justice; the Bookkeeper is included in the \$50,000. limit.

At the Town Barn there are 2 500 gal tanks, and 1 1000 gal tank. One 500 gal tank and the 1000 gal tank is contained and all are inspected yearly. A quote can be obtained for contamination and clean-up. Can add earthquake and flood insurance and Crime bond limits can be changed. Identity theft/Cyber liability policy can be added, but that can be expensive. Mr. Craine did recommend increasing the Umbrella liability to 2 million.

The 2012 quote for the annual policy will stand at \$19,474.92 if nothing further changes. Board members moved to renew the policy as it stands.

**RESOLUTION # 15 (2012): TO RENEW ANNUAL INSURANCE POLICY WITH SELECTIVE INSURANCE FOR \$19, 474.92**

On a motion by Councilwoman Vanderweyde, 2<sup>nd</sup> by Councilman Whitmore, the following RESOLUTION was ADOPTED

AYES: Vanderweyde, Whitmore, Ludwig, Cammarata, Heisler

NAYES: 0

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RESOLVED to renew the Town's annual insurance policy at \$19,474.92 with the Selective Insurance policy from 3/17/12 to 3/16/2013.

COMMITTEE REPORTS

R1.) Planning Board: verbal report by Chair Jackie Centerwall: The Planning Board continues to discuss the Comprehensive Plan, adding hydrofracking of Marcellus shale. They will present a final copy of the Comprehensive Plan in April/May time frame. The proposed Comprehensive Plan is on the Town website.

R2.) Assessor: no report

R3.) Enforcement Officer: report submitted. There was no County building permit report.

R4.) **Justice:** Justice Kehl spoke of the **JCAP grant** process which begins with a Resolution from the TB approving the grant application for JCAP. The Justice needs his own office and a small chamber for personal consultations. Justice records need to be in fireproof area. Supervisor Heisler mentioned a past JCAP grant in 2009, the current needs, and the fact the Town has outgrown the space built 15 years ago. He recommended applying for the maximum \$30,000. to be used for an addition to the Town Offices for an office/possible court rooms. Justice Kehl mentioned the JCAP grant may not be available next year due to funding. The consideration process starts in May, with applicants being advised of the decision generally within in 60 days. A full calendar year is given to spend for capital construction. It was questioned whether the Fire Station could be used as a place to hold Court, but Councilman Whitmore (Genegantslet Fire Chief) replied there is not room enough. It was also questioned if a temporary trailer type could be used as an office for the Justice, but the Judge replied it would not be feasible to have a trailer type for an office and then to have court in the Community Center. The following Resolution was brought forth.

**RESOLUTION # 16 (2012): AUTHORIZE JUSTICE TO APPLY FOR JCAP GRANT**

On a motion by Councilman Cammarata, 2<sup>nd</sup> by Councilwoman Vanderweyde, the following RESOLUTION was ADOPTED

AYES: Vanderweyde, Whitmore, Ludwig, Cammarata, Heisler

NAYES: 0

RESOLVED to authorize the Justice to apply for a JCAP grant of \$30,000. for construction of offices for the Justice/Court purposes.

R5.) **DCO:** Shelter report submitted. Her shelter will not pass inspection without a snag pole; welding gloves and a crate were also mentioned. DCO Christine Stark was present to request a snag pole, but felt she could obtain gloves if needed. There is a crate which belongs to the Town of Smithville in the storage building on Town property. A copy of an internet page was provided by DCO Stark showing the approx cost of a snag pole to be \$85.00 + shipping. The following Resolution was brought forth:

**RESOLUTION # 17 (2012): PURCHASE SNAG POLE FOR DCO**

On a motion by Councilman Whitmore, 2<sup>nd</sup> by Councilwoman Vanderweyde, the following RESOLUTION was ADOPTED

AYES: Vanderweyde, Whitmore, Ludwig, Cammarata, Heisler

NAYES: 0

RESOLVED to purchase a 5' snag pole for use by the DCO at an approximate cost of \$85.00 + shipping. The cost will come from the DCO contractual account A3510.4

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R6.) Attorney: report submitted

R7.) **Smithville Day:** no report. Supervisor Heisler will write a letter to Chairperson Karen Wood inquiring what the Town Board can do to help her with Smithville Day.

R8.) **Community Center:** Fire Extinguisher in kitchen needs to be refilled. A new extinguisher had been installed in a previous visit by Advanced Fire Protection in August 2011. At that time it was noted the extinguisher would need refilling in 6 months. A Town Official will take the extinguisher to Advanced Fire Protection in Norwich to refill on his/her next trip.

R9.) **Playground Committee:** Committee member Mindy Eldred reported only 2 members of the committee showed for the last meeting. The bathrooms need to be completed but there is a lack of volunteers to do the work. She suggested having the work contracted out. Councilman Cammarata will check on the bathrooms and see what needs to be done. Councilwoman Vanderweyde will talk with Mindy Eldred. Mindy also requested the Town rent a Port-a-john from April to October. Even if the bathrooms are completed, they might only be open at the time the Pavilion is rented. It was asked how much the port-a-john rental would be. Town Clerk Owens replied the Town has been charged \$75.00 a month for 1 port-a-john, the vendor has held the price for 3 years.

**RESOLUTION # 17 (2012): AUTHORIZE PORT-A-JOHN RENTAL APRIL TO OCTOBER**

On a motion by Councilwoman Vanderweyde, 2<sup>nd</sup> by Councilman Whitmore, the following RESOLUTION was ADOPTED

AYES: Vanderweyde, Whitmore, Ludwig, Cammarata, Heisler

NAYES: 0

RESOLVED to authorize the rental of a Port-a-John for the Community Park from April through October 2012.

R10) Town Clerk: report showed 1<sup>st</sup> month's savings using Ambit Energy over NYSEG Solutions. No applicants have come forward for the Deputy Clerk position. Town Board members recommended advertising in the Chenango American to find a replacement Deputy Clerk.

R11) Highway: report submitted and is included in the Archival copy of the minutes

- Purchased water tank from Oxford for the water truck.
- Summer work on Engaard, King, Pollard, Windham, and Hammerle
- Summer schedule starts April 1<sup>st</sup> – will be working 10 hr. days
- Still working with FEMA paperwork
- **Cincinnati Lake Dam work:** The Highway Sup't had questions on the responsibility issue for maintenance of the Cincinnati Lake Dam. According to documents on file at the Town Clerk's office, the responsibility issue belongs to the Lake Association and the Town of Smithville. These issues were discussed at a previous 2009 Town Board meeting but no follow-up was ever done. It was recommended to contact Attorney Monaco to have him review the documents and see what his opinion would be. In the meantime, Highway Sup't Kinney will check on the dam and see what work yet needs to be completed.

R12) **Supervisor's Report:** suggested the "estimate of revenue" sheet from the Town Law manual be implemented on an annual basis before working on a new budget. The Supervisor's report for the month of February was reviewed. A motion to accept the Supervisor's report was made by Councilman Cammarata, 2<sup>nd</sup> by Councilwoman Vanderweyde. All 5 Board members: Vanderweyde, Whitmore, Ludwig, Cammarata and Heisler were in favor, motion carried.

NEW BUSINESS

NB1: JCAP Grant possibilities: discussed previously

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NB2: **accept resignation letter from Deputy Clerk Beverly Giles.** A motion to accept the resignation with regret was made by Councilman Vanderweyde, 2<sup>nd</sup> by Councilman Whitmore. All 5 Board members: Vanderweyde, Whitmore, Ludwig, Cammarata and Heisler were in favor, motion carried.

NB3: review **letter from Neal Root re: Pond Creek.** The letter expressed Neal's concerns about the stream and its potential blocking by debris in the streambed. Last fall's flood came close to causing critical problems. He would like the Town Board to consider the situation and see what could be done. Highway Sup't Kinney responded that within 100'-150' off road work can be done with DEC permits, but the property in question is private property and the Town cannot work on it without different landowner permits. The Highway Sup't is trying to get FEMA funding to clean out the creek. The best way to clean out the creek now would be to buy the material, hire a contractor, and do the work, but he needs to make sure the FEMA \$ is going to come through for the other projects. If any of the other FEMA projects are rejected, there will be a short-fall in the Town funds. Supervisor Heisler suggested Bruce talk with Mr. Root.

NB4: Mr. Earl Howell was on hand to give a presentation to Town Highway Sup't. Bruce Kinney and the Highway crew for their help in getting stone out of Stone Quarry Hill Rd. quarry for the American Legion All Veterans monument in Greene.

NB5: Darin Mills: concern about **lack of speed limit on Water/Oak St.** This issue was presented to the Town Board last year but there was no follow-up. Mr. Mills would like to see something done such as "children at play" signs. It was mentioned Tarbell Rd (formerly Pearl St.), Round Pond Rd and also Collyer Rd. have similar problems. Highway Sup't Kinney replied the Town Board can request a speed limit reduction by Resolution, which is then sent to the Chenango County Highway Dept. for review. NYSDOT will then review the request and conduct a study. A final decision is made by NYSDOT. The current speed limit is 55 mph on these streets. Supervisor Heisler will talk with the County Highway Dept. and report back to the Town Board.

Later in the meeting Highway Sup't Kinney revisited the subject saying the speed limit on Water/Oak St. is an issue. Children at play signs (originally designated for Parks or Schools) could result in a liability to Town. He recommends a 15 mph sign but the exact course of action to obtain one would have to be followed. Current signs on Stone Quarry are yellow and are cautionary or discretionary signs.

OLD BUSINESS

OB1: NYSEG: offering Small Business Energy Efficiency Program through EnerPath (see attachments) Prevailing wage costs are extra for the Town. Supervisor Heisler checked with NYSEDA and spoke with someone who had had the program done and was pleased with the results. Supervisor Heisler said his own company had also had this process done. The question was asked--What does the prevailing wage do to the estimate? The quote would have to be updated. Alison will call and get 2<sup>nd</sup> quote.

OB2: "Amicus Curiae" A letter/email was received from the Town of Ulysses asking Smithville to consider participation in the "Amicus Curiae" brief which will challenge the Municipal Home Rule Law to include a municipality's right to decide what land use is appropriate for its citizens. Supervisor Heisler called the Assoc. of Towns who would support the idea of the Town's right to have Home Rule, but with the Courts continuously making/revising decisions on this topic, Supervisor Heisler is recommending tabling discussion on the "Amicus Curiae" and keeping monitoring the situation. For the protection of the community Councilman Ludwig would like to support Home Rule; remaining Board members had similar thoughts. The following Resolution was brought forth.

**RESOLUTION # 18 (2012): TABLE DISCUSSION ON "AMICUS BRIEF" UNTIL APR. 23<sup>RD</sup> MTG.**

On a motion by Councilman Cammarata, 2<sup>nd</sup> by Councilwoman Vanderweyde, the following RESOLUTION was ADOPTED

AYES: Vanderweyde, Whitmore, Ludwig, Cammarata, Heisler  
NAYES: 0

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RESOLVED to table further "Amicus Curiae" Brief until the April 23<sup>rd</sup> meeting or until further information is forthcoming.

**OB3: Town Clerk counter window covering:** The Overhead Door quote of \$850. did not include the prevailing wage to install the rolling window curtain. The new price is \$1036. The following Resolution was brought forth:

**RESOLUTION # 19 (2012): INSTALL WINDOW COVERING AT NEW QUOTED PRICE**

On a motion by Councilman Cammarata, 2<sup>nd</sup> by Councilwoman Vanderweyde, the following RESOLUTION was ADOPTED

AYES: Vanderweyde, Whitmore, Ludwig, Cammarata, Heisler

NAYES: 0

RESOLVED to have the Town Clerk window covering installed at the new quoted price of \$1036.

OB3, cont: light post outside: nothing more done

**Keyless entry lock:** Chenango County code says a panic bar must be installed on a Public building. There is a keyless card and panic bar system available. Councilman Cammarata will check on it.

**Water cooler:** Town Clerk Owens would like to purchase the water cooler from Lowe's but another cheaper one is available at Staples. The Town Clerk has a \$30. coupon to use at Staples before the end of March. Board members decided to approve purchase of the water cooler at Staples for cost minus coupon.

**RESOLUTION # 20 (2012): APPROVE PURCHASE OF WATER COOLER FROM STAPLES**

On a motion by Councilman Ludwig, 2<sup>nd</sup> by Councilman Cammarata, the following RESOLUTION was ADOPTED

AYES: Vanderweyde, Whitmore, Ludwig, Cammarata, Heisler

NAYES: 0

RESOLVED to purchase a new water cooler for the Community Center from Staples, and to use the \$30. coupon toward the purchase.

**MINUTES APPROVAL:** The minutes of the February 20<sup>th</sup> meeting were reviewed. A motion to approve the minutes was made by Councilman Whitmore, 2<sup>nd</sup> by Councilwoman Vanderweyde. All five Board members: Vanderweyde, Whitmore, Ludwig, Cammarata and Heisler in favor, motion carried.

**WARRANTS**

**General:** Vouchers #30-45 in the amount of \$8,649.29 were reviewed. A motion to approve these claims was made by Councilman Cammarata, 2<sup>nd</sup> by Councilman Whitmore. All five Board members: Vanderweyde, Whitmore, Ludwig, Cammarata and Heisler in favor, motion carried.

**Highway:** Vouchers #35-49, in the amount of \$13,105.73 were reviewed. A motion to approve these claims was made by Councilman Ludwig, 2<sup>nd</sup> by Councilman Cammarata. All five Board members: Vanderweyde, Whitmore, Ludwig, Cammarata and Heisler in favor, motion carried.

**OTHER:** meeting for April. Supervisor Heisler and Town Clerk Owens will be out of Town for the April 16<sup>th</sup> meeting. It was suggested and approved to move the meeting to April 23<sup>rd</sup>.

**CLOSE:** A motion to adjourn was made by Councilman Cammarata, 2<sup>nd</sup> by Councilman Ludwig. Meeting adjourned at 9:08pm.  
Alison B. Owens, Smithville Town Clerk