

Wawayanda Town Board Meeting 11/02/06

November 2, 2006

A Regular monthly business meeting of the Town Board of the Town of Wawayanda was called to order at 7:37 P.M., on Thursday, November 2, 2006, at the Town Hall, Ridgebury Hill Road, Slate Hill, New York.

Those present were:

John R. Razzano	Supervisor
David S. Cole	Councilman
Edward Krajewski	Councilman
Gail M. Soro	Councilwoman
Richard Penaluna III	Councilman
Richard Guertin	Attorney for the Town
Teresa Pierce	Town Clerk

Also Present: Michael Green - Highway Superintendent, Barbara Parsons - Planning Board Member; Gladys Hall - Historian; and approximately 10 other individuals.

PLEDGE TO THE FLAG

REGULAR BUSINESS:

PRESENTATION OF BILLS AND DEPARTMENT REPORTS:

Reports from the Town Clerk, Planning Board, and the Building & Fire Inspector/Code Enforcement Officer, Assessor, and the bills from the General Fund, Highway Fund, and Water & Sewer Districts were presented to the Board for review.

APPROVAL OF DEPARTMENT REPORTS:

MOTION by **Councilwoman Soro**, seconded by **Councilman Penaluna**, to accept the various departmental reports, as submitted.

ALL IN FAVOR - CARRIED

PAYMENT OF BILLS:

MOTION by **Supervisor Razzano**, seconded by **Councilman Penaluna**, to authorize the payment of bills in the amount of \$2,572.13 from the General Disbursement Account, representing bills that were payable upon receipt. Breakdown as follows:

PPG06-00166	\$307.81
PPWS 06-00165	2,264.32

ALL IN FAVOR - CARRIED

Discussion Regarding Specific Vouchers:

****Voucher #G06-00223** submitted by the Assessor for a Wills, Trust, and Estate course at Marist College. Referring back to Town Board minutes, this course was approved on February 21, 2006, but at the June 8, 2006 meeting Mr. Ketcham informed the Board that it was canceled due to low enrollment, and that he would like to transfer to a Family Law class.

At that meeting Supervisor Razzano informed the Board that he would like to look into this and see what else that money could be used for. Matter was tabled.

Now, after discussion, it was determined that the Board would make a motion to authorize the Assessor to attend the course.

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MOTION by **Supervisor Razzano**, seconded by **Councilwoman Soro**, to re-affirm the approval for Dennis Ketcham, Assessor, to attend the Wills, Trust & Estate course at Marist College, at a total cost \$1,595.00.

VOTE

Supervisor Razzano - Aye
 Councilman Cole - Aye
 Councilman Krajewski - Nay
 Councilwoman Soro - Aye
 Councilman Penaluna - Nay

MOTION CARRIED

****Councilwoman Soro** questioned the **voucher from Roger Ferris for Engineering Services**, and commented that this service was never approved by the Town Board.

Supervisor Razzano explained that the charge is less than \$1,000.00 and does not require prior Town Board approval. Went on to explain that this was associated with the 80 acres that was donated to the Town, and it was at the Highway Department's request that the property be surveyed so that they could begin to cut the road to the Town Park .

Richard Guertin, Attorney for the Town, referred to the Procurement Policy, Section 32-1, which explained that this expense did not require Town Board approval prior to the service being rendered.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to authorize payment of bills from the General Disbursement Account in the amount of \$103,998.73. Breakdown as follows:

General Fund	G06-00168 - 00249 & G06-00306	\$ 45,633.42
Highway Fund	H06-00250 - 06-00271	48,978.00
Water/Sewer Districts.	WS06-00272 - 00305	9,387.73

WATER/SEWER BREAKDOWN:

Robinn Meadows Sewer District	\$2,792.87
Ridgebury Lake Acres Sewer District	1,087.47
Ridgebury Lake Water District	589.83
Denton Hills Water District	390.56
Arluck Water District	257.91
Water/Sewer Dist. #1	4,244.07
Lakeridge Drainage	8.20
Lakeridge Landscape	8.20
Lakeridge Street Lighting	8.20

Water/Sewer Total = 9,387.31

ALL IN FAVOR - CARRIED

PAYMENT TO MCGOEY, HAUSER AND EDSALL CONSULTING ENGINEERS, P. C.:

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to authorize payment in the amount of \$1,750.14 to **McGoey, Hauser and Edsall Consulting Engineers, P. C.** for

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engineering services rendered in reference to **Ryerson Court**, with payment being made from a Special Trust & Agency Account and charged to the Ryerson Court Escrow Account. (Balance in said account before payment is \$3,575.30).

ALL IN FAVOR - CARRIED

APPROVAL OF MINUTES:

After distribution of the draft copy of the August 3rd minutes, the Town Clerk recommended a revision to the wording of the top two paragraphs on page 12. She advised the Board that the minutes of the official Town Board minute book would reflect the amendment to the wording. Board members were provided with copies of the revised wording. All recipients of minutes will be provided with the amended page.

MOTION by **Councilman Cole**, seconded by **Councilman Krajewski**, to approve the minutes of the August 3rd Town Board meeting with the amendment, as recommended by the Town Clerk, and the October 5th, 2006 Town Board meetings, as prepared.

ALL IN FAVOR - CARRIED

NEW BUSINESS:

GRANDVIEW ESTATES - WATER TREATMENT/STORMWATER MANAGEMENT FACILITIES:

Supervisor Razzano discussed the request received from Tim Miller Associates in regards to the Grandview Estates subdivision. At this time they are in the process of a 34 home subdivision which will have a central water system, retention ponds, and an emergency access road which will require maintenance. The project is currently in front of the Planning Board and has been referred to the Town Board so that they can designate who will be responsible for maintaining these two entities. The options would be to form a Homeowners Association, or to have the Town form a Maintenance District. Added that the applicant does not have a preference to either option.

Supervisor Razzano commented that he would like to see a Homeowner's Association formed.

Councilman Cole would like to see them remain as private entities for now so that when the times comes they could be addressed at the same time as the water company.

Attorney Guertin referred to the Stormwater Management and Erosion, and Sediment Control Local Law, and asked about the provision under Section 195.23D that stated that the Town Board shall designate a Stormwater Management Officer. Suggested that if this has not been done their should be someone designated by the Board to handle the responsibility, because when projects like this one comes forward, obviously, the Town should have a Stormwater Management Plan consistent with the code.

Barbara Parson, Planning Board Member, commented that in some cases as far as the Stormwater Management is concerned, an independent company was to be brought in to run it, and there would be money set aside for that purpose.

Supervisor Razzano stated that ultimately there would be only one place to go with this and that is to the Highway Department because it involves such things as catch basins, culvert pipes, and the maintenance of a road.

Highway Superintendent Green stated that we do have a few of these systems throughout the Town, and most of them are in districts, or are being taken care of by Homeowners Associations. Some are on private property, so technically the Town cannot go in and maintain them. Some further discussion took place.

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to recommend that Tim Miller and Associates advise their client, 'Grandview Estates', to form a Homeowners Association to oversee the maintenance and upkeep of the for Stormwater Management

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facilities, along with the emergency access road and newly created Water District.

ALL IN FAVOR - CARRIED*

* After it is set up and successfully operating for a period of time, the Town may consider taking it over.

SALT BARNS/ ROOF REPAIR BIDS: Bryce Flynn, Park Superintendent, solicited proposals for replacement of shingles and repairs to the roofs of the Highway Department Salt Barns. He obtained three price quotes as follows:

- 1)Northern Windows, Siding & Roofing - \$6,000.00
- 2)Emlm Co., Inc / Empire Improvement - \$1,250.00
- 3)Roberts Contracting, Inc. - \$6,900.00

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to accept the bid in the amount of \$1,250.00, which was submitted by Emlm Co, Inc./ Empire Improvement for repairs to the roofs of the Salt Barns.

ALL IN FAVOR - CARRIED *

* In the event that the job will require more extensive work than the replacement of missing shingles, there will be additional charges of \$65 per sheet for ½ inch plywood, plus materials and labor.

VACANT POSITION IN TOWN CLERK'S OFFICE: Teresa E. Pierce, Town Clerk, submitted a memo to the Supervisor's office requesting that she be authorized to hire an individual (name to be announced) to fill the vacant position left by the resignation of Jean E. Rose. She also asked that a determination be made on what the starting salary will be. The job is a 20 hour per week clerical position, and there is an individual who has expressed interest in the position.

Mrs. Pierce still needs to consult with this individual about working hours, duties, and starting salary, but she was hoping that with Board approval she can hire the person and have her begin work as soon as possible. .

A discussion took place, and it was agreed that the matter would be tabled until more information can be provided about the person who may be hired.

PERSONNEL MATTER:

MOTION by **Councilman Cole**, seconded by **Councilman Krajewski**, to interrupt the regular meeting so that the Board may convene in Executive Session in regard to a personnel matter.

ALL IN FAVOR - CARRIED

* **Councilman Penaluna** recused himself from the discussion that the Board was about to enter into in Executive session. The subject of the Executive Session is indirectly related to him.

EXECUTIVE SESSION: No action taken.

MOTION by **Councilman Krajewski**, seconded by **Councilman Cole**, to close Executive Session and re-open the regular meeting.

ALL IN FAVOR - CARRIED

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MOTION by **Councilman Cole**, seconded by **Councilman Krajewski**, to re-enter into Executive Session in regard to a personnel matter, and to invite Laura Slowik to be in attendance.

ALL IN FAVOR - CARRIED

EXECUTIVE SESSION: No action taken.

MOTION by **Supervisor Razzano**, seconded by **Councilman Cole**, to close Executive Session and re-open the regular meeting.

ALL IN FAVOR - CARRIED

PERSONNEL RE-CLASSIFICATION/LAURA SLOWIK:

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to authorize that Laura Slowik be provisionally promoted and re-classified to the title of 'Administrative Assistant', as recommended by the County Personnel Office..

A VOTE

Supervisor Razzano	-	Aye
Councilman Cole	-	Aye
Councilman Krajewski	-	Aye
Councilwoman Soro	-	Abstain
Councilman Penaluna	-	Recused

MOTION CARRIED

OLD BUSINESS:

Preliminary Budget Public Hearing: **Supervisor Razzano** stated that the time of the Public Hearing on the Preliminary Budget will have to be changed due to a conflict with the ZBA meeting which is scheduled to take place at 7:30 PM on Thursday, November 9th.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to re-schedule the Public Hearing on the Preliminary Budget for 6:00 P.M. on Thursday, November 9th, 2006.

ALL IN FAVOR - CARRIED

MISCELLANEOUS CORRESPONDENCE:

Community Capital Assistance / Senator John Bonacic: **Senator Bonacic** sent a letter to the Town of Wawayanda as formal notification that the Town has been selected to receive \$50,000.00 (fifty thousand dollars) through the Community Capital Assistance Program (C-CAP).

Supervisor Razzano commented that the funding will be used for the construction of a Youth Center which will be located next to the Senior Center at Shannen Park.

Hudson Valley Greenway Grant: A check was received today in the amount of \$7,500.00 (seven thousand five hundred dollars) in regards to the Greenway Grant for the Comprehensive Plan.

Veteran's Day Celebration: The Recreation Committee will be holding the 2nd Annual Veteran's Day Celebration at Shannen Park on November 11th, 2006, at 10:00AM. All are welcome to attend, and there will be refreshments at the Senior Center following the ceremony.

Brokerage Tour: **Councilman Cole** informed the Board that on Friday, November 3rd, 2006, the Economic Development Committee will be conducting a tour of the Town, and the kick-off will

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be at Town Hall at 12:00PM. There are a number of Brokers expected to attend and there are brochures that are being put together. After the tour, R. J. Smith Realty will be sponsoring a luncheon at Town Hall. At their request, and at the request of the Orange County Partnership, all Town Board Members are invited to attend the luncheon to show their support of this effort. **Councilwoman Soro** asked how much money the bus is going to cost and where in the budget the monies will be appropriated.

Councilman Cole stated that the cost for the bus is \$214.00 and he was unsure what budget line it was to come out of, but he would confer with the Town Bookkeeper.

Draft Copy of the Proposed Zoning Law: **Supervisor Razzano** stated that draft copies of the proposed zoning revisions were provided to all Board members, so that they may familiarize themselves with what is being proposed.

REINSTATEMENT OF THE TAX COLLECTOR POSITION: **Councilman Penaluna** read aloud a prepared statement which said “Tonight we have to correct a wrong that was done by the previous board that took away the vote for an elected official for purely personal reasons. In the resolution to remove this elected official, three members of the Board should have recused themselves from voting on this issue. This never happened. This was not only a disservice to the people, but it was dishonorable. A great disservice was done to the electorate. Therefore, I would like to propose the following resolution to restore the office of the elected Tax Collector”.

Councilman David Cole recused him self from the discussion and left the room.

Councilman Penaluna offered a resolution as follows:

**TOWN BOARD OF THE TOWN OF WAWAYANDA
Resolution 14 - 2006**

WHEREAS, the Town Board of the Town of Wawayanda passed a resolution on December 30, 2005 which abolished the office of the Tax Collector for the Town of Wawayanda, effective December 31, 2007, and;

WHEREAS, the Town Board wants to rescind and repeal that resolution;

NOW, THEREFORE, be it resolved by the Town Board of the Town of Wawayanda as follows:

1. The resolution of the Town Board of the Town of Wawayanda dated December 30, 2005 which purported to abolish the office of Tax Collector for the Town of Wawayanda is hereby rescinded and repealed in its entirety.

2. The office of Tax Collector for the Town of Wawayanda will continue to be an elective office for the Town of Wawayanda, and the Tax Collector will continue to have all the powers and duties of a collector of taxes as specified in the Town Law and any other applicable law.

Moved By: **Councilman Richard Penaluna**

Seconded By: **Councilman Edward Krajewski**

Ayes: **3 (Supervisor Razzano, Councilman Krajewski, Councilman Penaluna)**

Noes: **1 (Councilwoman Soro)**

Abstain:**1 (Councilman Cole)**

Absent: **0**

Date of adoption: **November 2, 2006**

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Councilman Krajewski said that at that time this action occurred he expressed his objections, and added that this never should have happened, and it is time that we correct it.

Councilwoman Soro called upon **Attorney Guertin** for his opinion, and stated that she has read through Town Law, and that since she was unaware that this matter was going to be addressed, she does not have her paperwork with her. Said that it is her understanding that the former action could not be repealed.

Attorney Guertin stated that when this matter was first brought up in the earlier part of the year he did some research and determined that if a position was abolished, specifically the Tax Collector, the Town Board could not reinstate it, absent the local law subject to mandatory referendum. However, the position has not yet been abolished since the former resolution speaks to the future. The Town Board could adopt a resolution repealing that prior resolution and therefore the Tax Collector position remains in effect.

Mr. Guerin then stated that he has been in contact with Jim Cole who is Special Counsel to the Association of Towns, and who used to be with the Attorney Generals office as the Assistant Attorney General in charge of issuing opinions. Mr. Guertin outlined what had been done by the Town Board last year and told him what the proposal was for this year and his specific questions were: "Could the Town Board do that?"; "Did it have to be done by Local Law?"; and "Would it be subject to any type of referendum?". Mr. Cole's response was the same as Attorney Guertin's in that they could rescind and repeal that prior adopted resolution, no local law would be needed, and it would not be subjected to any referendum. Therefore the resolution could be repealed and the Tax Collector position could continue the same as it has been.

Councilwoman Soro asked **Attorney Guertin** if he could provide something in writing regarding that particular issue that she could review because she is under a different opinion.

Councilwoman Soro then asked **Councilman Penaluna** who should have recused themselves at the time the position was abolished?

Councilman Penaluna responded that Supervisor Skinner, Councilman Skinner, and Councilman Cole, all due to their family affiliation with the Tax Collector.

Ora Woods asked the Supervisor if something could be provided in writing in an effort to prevent this from happening in the future.

Barbara Parsons stated that if an opinion in writing was going to be sought it should also include the opinion on the original vote since the only legal vote was **Councilwoman Soro's**.

Lucy Kunkle asked what the difference was between this matter and when the Elected Assessors' positions were abolished a few years ago.

Teresa Pierce, Town Clerk, responded that the Assessors' positions were abolished by a Local Law subject to permissive referendum, and although a petition had been submitted, it was determined to be invalid. The Tax Collector position was due to be abolished by Resolution, with an effective date of December 31, 2007.

Supervisor Razzano commented that this matter has been dealt with in a proper manner and does not wish to seek any further opinions.

*** At this time, **Councilman Cole** rejoined the meeting.

Highway Department Budget Reduction: **Councilwoman Soro** commented that at the last meeting it was discussed that \$70,000 was going to be removed from the Highway Department Budget, and asked **Supervisor Razzano** if he has determined where that money will be coming out of because in her discussions with **Michael Green**, Highway Superintendent, he was not aware that a large amount had already been taken out.

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Supervisor Razzano said that the money was not taken out of his budget but \$100,000.00 (one hundred thousand dollars) has been taken out of Highway Surplus to bring down the amount to be raised by taxes.

Councilwoman Soro then asked **Superintendent Green** if he was aware that \$70,000.00 (seventy thousand dollars) was already approved to be taken out of his budget?

Highway Superintendent Green responded that he met with the Supervisor this morning and he was under the impression that there was not going to be \$70,000.00 taken out of his budget, and that he was aware that the \$100,000.00 was coming out of surplus.

Supervisor Razzano stated that this was not what they discussed.

Highway Superintendent went on to state that at the meeting he had with the Supervisor this morning he thought that it was decided that since some of the men would be leaving this year and new individuals would be hired the difference in the salaries is where they would be cutting back. Added that if we were going to take the \$70,000.00 out, it should be taken out of chip seal, and said that at this time he still is not aware of where the budget will be reduced.

Supervisor Razzano stated that he did not have the budget information with him, and that it will be addressed at the next meeting.

Councilwoman Soro said that she does not understand how money could be taken away from such an important department that is not broken, so why are we fixing it with these cuts. Added that she does not feel enough time has been allotted for the budget review. Further discussion took place.

Repeal of the Cultural Resources Management Law: Councilman Cole stated that back on May 4th, 2006, the public notice was given to repeal the Local Law to Repeal the Cultural Resources Management Law, Chapter 72. The Public Hearing was held on June 8th, 2006, at which time the Public Hearing was closed, and any action was tabled. At this time he would like to make a motion to take action to repeal this law.

Councilwoman Soro asked the Supervisor why this matter was not placed on the agenda.

Supervisor Razzano stated that he was not aware that this was going to be addressed, and that it was brought up by a Board member.

Councilwoman Soro asked **Councilman Cole** if he would be affected by this local law, and was advised that he would not be affected, and that all of his business with the Planning Board has been completed.

MOTION by **Councilman Cole**, seconded by **Councilman Krajewski**, to adopt the Local Law as follows:

**Town of Wawayanda
Local Law 5-2006**

A LOCAL LAW TO REPEAL THE CULTURAL RESOURCES MANAGEMENT LAW,
CHAPTER 72 OF THE CODE OF THE TOWN OF WAWAYANDA

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF WAWAYANDA, NEW YORK, AS FOLLOWS:

Section 1. Purpose of this Enactment

The Town Board of the Town of Wawayanda previously enacted Local Law No. 1 of the year 2004, which is entitled the 'Cultural Resources Management Law'. Under that law, which added a new Chapter 72 to the Town of Wawayanda Code, applicants for site plan approval,

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subdivision approval, or other approvals from the Planning Board, in certain circumstances, have to undertake investigations to determine whether the applicable property contains significant historic, archaeological and cultural resources. The Town Board of the Town of Wawayanda now determines that the Cultural Resources Management Law is not needed because investigations into historic, archeological and cultural resources can be required under existing state laws, such as the State Environmental Quality Review Act and the Historic Preservation Act, as well as the existing Zoning Code of the Town of Wawayanda. Accordingly, the purpose of this enactment is to eliminate such duplication by repealing Local Law No. 1 of the year 2004 in its entirety.

Section 2. Repeal of Local Law No. 1 of the Year 2004

Local Law No. 1 of the year 2004, which was entitled the Cultural Resources Management Law and which added a new Chapter 72 to the Town of Wawayanda Code, is hereby repealed and revoked in its entirety.

Section 3. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

Upon Roll Call Vote:

Supervisor Razzano	Aye
Councilperson Cole	Aye
Councilperson Krajewski	Aye
Councilperson Soro	Nay
Councilperson Penaluna	Aye

Vote: Resolution carried by a vote of 4 Ayes to 1 Nay

PUBLIC QUESTIONS/COMMENTS:

Deborah Glover expressed her disapproval of the way that this issue (Cultural Resource Management Law) was handled, and then discussed her position in regard to the importance of an inventory of historical properties.

Councilman Cole stated that one of the suggestions of the Master Plan which is in place now, is to get an inventory of Historical Properties. Expressed his willingness to partake in this process.

Ms. Glover added that there will be correspondence addressed to the Supervisor's office regarding the recording of the Zoning Board meetings, as well as from the DEC concerning the Truck Stop on Route 17M.

Barbara Parsons thanked **Councilman Penaluna** for giving the residents of the Town their vote back concerning the position of the Elected Tax Collector, and then addressed **Councilman Cole** by stating that the Cultural Resources Management Law did not hurt anybody.

Daniel Myers expressed his disagreement with the repeal of the Cultural Resources Management Law, and stated that the Town just lost its local control. Also voiced his opinion regarding the \$70,000.00 cut in the Highway Department budget.

Randolph Hurst stated that he concurs with the comments made regarding the repeal of the Law and expressed his concerns.

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NO OTHER COMMENTS, AND NO OTHER BUSINESS.

MOTION by **Supervisor Razzano**, seconded by **Councilman Krajewski**, to adjourn the meeting.

ALL IN FAVOR - CARRIED

MEETING ADJOURNED: 9:18 P.M.

**PREPARED BY KATHRYN SHERLOCK
RESPECTFULLY SUBMITTED,**

Teresa E. Pierce, RMC