

Regular Meeting Minutes of the Vestal Town Board

April 14, 2021

The Regular Meeting of the Town Board of the Town of Vestal, County of Broome and the State of New York was held via Zoom and Twitch on the Town Website on April 14, 2021.

TOWN BOARD PRESENT:

Supervisor John Schaffer
Councilwoman Patty Fitzgerald
Councilwoman Sue Messina
Councilman John Fletcher
Councilman Jason Ellis

ALSO ATTENDING: Town Attorney David Berger, Town Engineer Vern Myers, Secretary to Town Supervisor & Town Attorney Andria Kintner, Town Clerk Debra Wallace and 25 members of the public online.

Supervisor Schaffer convened the meeting at 6:20 PM due to technical issues.

APPROVAL OF MINUTES

On a motion by Councilwoman Messina, seconded by Councilman Fletcher, the following was

ADOPTED Ayes 5 Fitzgerald, Messina, Fletcher, Ellis, Schaffer
Nays 0

Resolved the Minutes of March 24, 2021 are approved.

BID OPENINGS

PUBLIC HEARINGS

PRIVILEGE OF THE FLOOR

One resident voiced her concern about the proposed rezoning of Bunn Hill and turning fields into concentrated development.

RESOLUTIONS & MOTIONS

Acceptance of SEQR for Timber Harvesting at 1132 Powderhouse Rd

R087-21 On a motion by Councilman Ellis, seconded by Councilman Fletcher, the following was

ADOPTED Ayes 5 Fitzgerald, Messina, Fletcher, Ellis, Schaffer
Nays 0

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Resolved to accept the SEQR for Timber Harvesting at 1132 Powderhouse Road. The Town Board of the Town of Vestal (hereinafter the “Board”), hereby finds and determines that:

(a) It has considered the action, reviewed the Environmental Assessment form, reviewed the criteria set forth in 6 NYSCRR section, 617.7(c), thoroughly analyzed the relevant area of potential environment concern and has duly considered all of the potential environmental impacts and their magnitude in connection with the proposed project.

(b) The project will not result in any large and important environmental impacts, and therefore, is one which will not have significant impact on the environment, and therefore, a negative declaration will be prepared; and (c) the reasons supporting this determination are set forth on the attached form.

Harvest Permit for 1132 Powderhouse Rd

R088-21 On a motion by Councilman Fletcher, seconded by Councilwoman Fitzgerald, the following was

ADOPTED Ayes 5 Fitzgerald, Messina, Fletcher, Ellis, Schaffer
Nays 0

Resolved to issue a Timber Harvest Permit for 1132 Powderhouse Road to harvest within 300 ft. of an RA-1 zoning district and permission to place the landing area within 150 feet of a public road.

Striping, Milling & Paving Work

R089-21 On a motion by Councilman Ellis, seconded by Councilwoman Messina, the following was

ADOPTED Ayes 5 Fitzgerald, Messina, Fletcher, Ellis, Schaffer
Nays 0

Resolved to approve funding for Striping, Milling and Paving at Angelo Field, Arnold Park (Baseball Lot), Harold Moore Park, and the Police Garage Parking lot. All of which had damage due to winter storms and large amounts of snowfall as well as Covid restrictions. All pricing is from the Broome County Bid list.

Agreement with Rosanne Sall Advertising Agency

R090-21 On a motion by Councilwoman Messina, seconded by Councilman Fletcher, the following was

ADOPTED Ayes 5 Fitzgerald, Messina, Fletcher, Ellis, Schaffer
Nays 0

Resolved to enter into an agreement with the Rosanne Sall Advertising Agency, Inc., for creating a flyer to be inserted in the Change of Assessment Notices explaining the 2021 equalization maintenance process. As well as additional future Town of Vestal projects at the rate up to \$150 per hour, not to exceed \$10,000.

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Public Hearing Date Set for Special Aquifer & Vehicle Service Station Permit

R091-21 On a motion by Councilman Fletcher, seconded by Councilwoman Fitzgerald, the following was

ADOPTED Ayes 5 Fitzgerald, Messina, Fletcher, Ellis, Schaffer
Nays 0

Resolved to advertise for a Public Hearing regarding a Special Aquifer Permit and Vehicle Service Station Permit for Lowe's to build a Tool and Equipment Rental center as a small building addition to the existing Lowe's at 225 Sycamore Road, with a publication date of April 28, 2021 and the Public Hearing to be held on May 12, 2021.

CONSENT AGENDA

On a motion by Councilwoman Messina, seconded by Councilman Ellis, the following was

ADOPTED Ayes 5 Fitzgerald, Messina, Fletcher, Ellis, Schaffer
Nays 0

Resolved to adopt the Consent Agenda as follows:

PUBLIC WORKS (ELLIS/Messina)

Advertising for Highway Materials Bid

R092-21 Request from Craig Hiller, Highway Superintendent, to advertise in the Town Crier on April 21, 2021 for Highway Materials with bid opening on May 4, 2021.

Tobler Issued Refund from Water Department

R093-21 Request from Scott Groats, Water Superintendent, for the Town to issue a refund to resident, Dawn Tobler, 4228 Emerson Pl., in the amount of \$134.45 for a credit balance on her account.

Ti-Sales Awarded Water Meters Bid

R094-21 Request from Scott Groats, Water Superintendent, to award the bid for Water Meters to lowest bidder Ti-Sales Inc., Sudbury, MA. Budget line number is W8340-4304.

Emergency Work Along Choconut Creek Embankment

R095-21 Request from Scott Groats, Water Superintendent, for the Town Board to deem an emergency, the situation of Choconut Creek encroaching on the well facility and eroding the embankment to the point of becoming critical and to approve the hiring of JB excavating to perform bank stabilization around the well facility as Phase I of the project. Other phases will be designed when decisions on funding are determined. Funding for the emergency work can be obtained from fund balance and should not exceed \$50,000.00.

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FINANCE (MESSINA/Fletcher)

Rocks for Harold Moore Park

R096-21 Request from Laura McKane, Comptroller, for the Town Board to authorize the appropriation of Fund Balance - A1011.1011 in the amount of \$27,138 to add to A7140.4002 - Miscellaneous Site Improvements. These funds will be used in 2021 to pay for rock at Harold Moore Park, replacing damaged guide rail (\$9,138) and to repair damages at Arnold and other parks.

Budget Transfers Dated 2020

R097-21 Request from Nick Angeline, Deputy Comptroller, to make budget transfers dated 2020 as indicated in memo dated April 12, 2021.

Budget Transfers Dated 2021

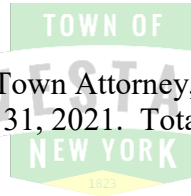
R098-21 Request from Nick Angeline, Deputy Comptroller, to make budget transfers dated 2021 as indicated in memo dated April 12, 2021.

Stipend for Hiller

R099-21 Request for authorization for the Business Office to issue a one-time stipend of \$5,000.00 to Craig Hiller in recognition of his assuming the responsibility of the Parks Department effective July 1, 2020 in addition to his duties as Highway Superintendent.

Billable Hours for Attorney

R100-21 Request from Dave Berger, Town Attorney, to authorize payment of billable hours for the period February 1, 2021 through March 31, 2021. Total time was 12 hours and 55 minutes. Total amount is \$1,937.50.



PERSONNEL (FLETCHER/Fitzgerald)

Wickman Hired in Recreation

R101-21 Request from Nancy Olmstead, Director of Human Resources, to appoint Kelcy Wickman as Assistant Recreation Planner effective April 12, 2021. This appointment will be provisional. Per the CSEA collective bargaining agreement Ms. Wickman's rate of pay will be \$21.90 per hour. She is already a Town of Vestal employee so no additional background check is necessary.

Baldwin Hired as Crossing Guard

R102-21 Request from Nancy Olmstead, Director of Human Resources, to authorize John Butler, Police Chief, to appoint Marjorie Baldwin to the vacant position of Crossing Guard effective April 12, 2021. Ms. Baldwin's rate of pay will be \$12.50 per hour. Background check has been completed.

Webster Hired as 1st Deputy Clerk

R103-21 Request from Nancy Olmstead, Director of Human Resources, to authorize Debra Wallace, Town Clerk, to appoint Heather Webster to the vacant 1st Deputy Town Clerk position effective April 19, 2021. Per the CSEA collective bargaining agreement Ms. Webster's rate of pay will be \$19.66 per hour. She is already a Town of Vestal employee so no additional background check is necessary.

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PLANNING & ZONING (FITZGERALD/Fletcher)

Boy Scout 2021 Christmas Tree Sale

R104-21 Request from Walaya Kretzmer, Tree Sale Coordinator for Boy Scout Troop #225, to use the Vestal Library parking lot for 2021 Christmas Tree Sales November 20, 2021 to December 30, 2021

Highway Salt Barn Roof Contract

R105-21 Request from Vern Myers, Town Engineer, for authorization to contract with the preferred Architect for analysis and design services for the Highway Department Salt Barn roof.

Signing of Agreement for Kopernik Right-of-Way/Easement

R106-21 Request from Vern Myers, Town Engineer, for the Town Board to authorize himself or the Town Supervisor to sign an agreement and right-of-way/easement for access and for the property owner to maintain the storm water facilities at Kopernik Observatory. The easement and maintenance agreement shall run in perpetuity on the owner of the property.

StacheStrong 5K Run/Walk

R107-21 Request from Betsy Gerner, Director of Community Relations for StacheStrong, to hold their annual StacheStrong 5K Run/Walk to benefit Brain Cancer Research on Saturday, September 18, 2021 down Front St. Contingent upon receiving Insurance Waiver.

PUBLIC SAFETY (MESSINA/Ellis)

Donation to Fire Department

R108-21 Request from John Paffie, Fire Chief, for the Board of Fire Commissioner to approve a donation of \$40 from Darlene Walter. Funds will go in the Fire Prevention Budget Line of F3410-4612.

ADMINISTRATION (FLETCHER/Ellis)

Signing of Plexicomm Contract

R109-21 Request from Daniel Williams, IT Director, for the Town Board to authorize himself or the Town Supervisor to sign the proposed 36 month term, internet pricing from Plexicomm. This reduces our current rate of \$1095/month down to \$450/month for our fiber dedicated internet connection.

END OF CONSENT AGENDA

RECEIVE AND FILE

- Warrants: 2021 – 12, 12E; 13, 13E; 14, 14E
- Change of Tenant – Bothar Construction – 3217 Stewart Rd
- Change of Tenant – Golden Nails – 3701 Vestal Parkway E
- Change of Tenant – Healing Rain – 301 Main St

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- Change of Tenant – Lane Bryant Brands Loft Store – 1808 Vestal Parkway E
- Change of Tenant – Skyway Gas Corp/Gulf – 232 Vestal Parkway E
- Change of Tenant – HCS dba Spooky Action Industrial Arts – 1803 Castle Gardens Rd

COMMITTEE CHAIR COMMENTS & UPDATES

PETITIONS AND PROTEST

OLD BUSINESS

Bunn Hill Project: Further discussion of SEORA

Town Attorney David Berger reviewed with the Town Board Part 2 of the Environmental Assessment Form and the items that could have an impact.

1. Impact on Land:

- *Councilman Ellis stated that he feels that the amount of green space (17 acres of 42 acres) and barrier with the rest of the neighborhood is acceptable.*
- *Councilwoman Messina stated that she remembers Bunn Hill Manufacturing Company. The building was abandoned and became a single family residence, eventually it collapsed. She feels that this project would be an improvement.*
- *Supervisor Schaffer stated he walked the area and the creek, the creek is in poor shape and would not be impacted in any negative way. Schaffer believes that after looking at the plans and the grounds, everything is acceptable.*

2. Impact on Surface Water:

- *Town Attorney David Berger stated that there were some wetlands delineated.*
- *Town Engineer Vern Myers stated that the project was reviewed by the US Army Corps of Engineers. If the project moves forward, the decisions would be deferred to the Army Corps & DEC regarding mitigation. Any disturbance or lose of wetland would be remediated by a mitigation plan.*
- *Councilman Fletcher asked Myers given his experience, what type of mitigation could potentially create a greater concern to the town?*
- *Myers stated that when there is a loss of a wetland, normally they would try to attach or expand an existing wetland, but a new wetland could be incorporated in the storm water plan. Important to keep the hydrology of the water so that any expansion would not disturb the habitat. He feels that there is ample area to keep green space and remedy the loss of wetlands with new wetlands.*

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3. Impact on Plants & Animals

- *Councilman Fletcher commented on the recommendation that any type of tree removal to take place could only occur within a particular seasonal window. Is there opportunity to make additional recommendations on top of what the Planning Board identified?*
- *Town Attorney David Berger stated that if it moves forward, it would go back to the Planning Board and there would be an additional review of the plan and specifics of the tree removal process. Town Board would not have any addition input on the project unless the Town Board puts additional stipulation on it as part of the approval process.*
- *Councilman Ellis commented that the report from Ecological Analysis, LLC concluded that there would be temporary displacement of animals but there was plenty of habitat that remains on the undeveloped portions of the property and off site of the project which would allow free movement of any species that might be disturbed.*

4. Impact on the Esthetic Resources: Obstruction of views, public enjoyment, Visual

- *Town Attorney David Berger stated that the project is on the downhill of the line of sight.*
- *Supervisor Schaffer stated that he has looked at other areas and this style of development seems to be very popular.*

5. Impact on Transportation

- *Councilwoman Fitzgerald stated that many residents have asked about the traffic in that area. If there is an emergency, how fast can Emergency Services get through? When was the latest traffic study done?*
- *Town Attorney David Berger stated he believes it was done March of 2020. Berger asked Vern Meyers, Town Engineer if there has been any new development that would impact that study?*
- *Town Engineer Vern Myers stated the study is based on the NYS Transportation Model and does not believe there has been any significant changes in the Town of Vestal that would impact that study. However, he is not aware of what impact Binghamton University or the new stadium would have on the study.*
- *Councilman Ellis commented that the traffic engineer felt that there were plenty of gaps in the traffic flow such that there would not be a significant impact and his understanding is that the DOT could change the timing of the traffic lights if needed.*
- *Myers commented that the DOT reviewed this and had comments about Saturday and weekend peak times. It is a moving model for the DOT and it is under their control to adjust as necessary.*
- *Ellis mentioned that the Vestal Ambulance & Fire Department do have preamps for the signal*

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at that intersection.

- *Councilman Fletcher brought up a concern for line of sight and looking north and south of the driveway of the proposed construction. Fletcher believes that the view is adequate. Fletcher would like to see an inclusion of a bus service which would also help with some of the traffic concerns.*
- *Berger commented that his understanding is that the applicant is looking into the bus services in that area. Berger asked if the Board had any comments about sidewalks.*
- *Supervisor Schaffer stated that there is minimal foot traffic going up Bunn Hill and does not feel sidewalks are necessary.*
- *Councilwoman Messina feels that it would not be logical to put in sidewalks since there is very little foot traffic.*

6. Impact on Energy

- *Town Attorney David Berger stated that the concern was the possibility of going over 2500 megawatts per year.*

7. Impact on Noise, Odor & Light

- *Town Attorney stated that plans shows the property on a down slope from the road and the lights facing downward should not cause any problem.*
- *Councilman Fletcher asked if there was a noise ordinance in the area.*
- *Berger stated that there is a Town wide noise ordinance already in effect.*

8. Consistency with Community Plan

- *Town Attorney Berger stated that is a concern since we are here talking about a Planned Development District (PDD) Overlay that is different from what is already there.*
- *Supervisor Schaffer stated that in 1966 when the PDD was established, the purpose was to give the Town Board the discretion to decide if a project was feasible for the Town of Vestal and in the best interest of the Town as a whole.*
- *Councilman Ellis commented that this is a residential project in a residential area. It is not a strip mall. Ellis does not feel it is a student housing project, but a project that will attract people to this area.*
- *Councilman Fletcher commented that after reviewing and understanding the PDD overlay and Vestal's zoning laws, he believes that using a PDD Overlay falls within the definition and*

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limits of what the Town Code permits specific to spot zoning. One of the phases of spot zoning is unjustified exception. Fletcher does not feel this project fits the definition of spot zoning. It provides benefit from a tax revenue perspective, public sewer to be brought over 4000 ft up Bunn Hill Rd, expansion of public water and meets the environmental need of beginning to eliminate septic systems. Those benefits sway him to believe it is not unjustified and does not fall under the definition of spot zoning.

- *Councilwoman Fitzgerald commented that Vestal does not have a Comprehensive Plan and nor does Broome County.*
- *Fletcher commented that given this project and not knowing what the next 10-15 years hold, that it would be in the best interest of the Town to have a Comprehensive Plan by 2022.*
- *Schaffer stated that it could not be done in a year because it is a huge undertaking but it is necessary to come together to create a Comprehensive Plan for the good of Vestal. We represent 30,000 residents and it is long overdue.*

9. Consistency with the Community Character:

- *Councilman Ellis commented that of the 42 acres, approximately 10 acres will be buildings, blacktop and the rest green space.*
- *Councilwoman Messina stated that the green space will limit the environmental impact.*
- *Councilman Fletcher commented that the cottage style homes would have varied heights, sizes, textures and colors, much like what a traditional neighborhood would look like.*

Town Attorney, Dave Berger, read through the Planning Boards recommendations. Supervisor Schaffer stated that he has a lot of faith in our Planning Board to make recommendations to the Town Board. If this project moves forward, water will be brought up Bunn Hill, NYSEG will bring natural gas, and fire hydrants will be added to the road which in turn will help to lower home owner's insurance costs.

The Town Board agreed to make a final vote on the project April 28th, 2021. This would allow the Town Board an opportunity to look over all the information discussed tonight.

NEW BUSINESS

SUPERVISOR'S ANNOUNCEMENTS

- New York State Burn Ban is in effect until May 14th, 2021.
- The Town of Vestal, utilizing the NYSDEC Trees for Tribes program and with the assistance of the Broome County Soil and Water Conservation District/Upper Susquehanna River Coalition Buffer Team, will be installing trees and shrubs at Harold

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Moore Park along the stream to create a forested riparian (streamside) buffer that helps decrease erosion, reduce flooding damage, improve wildlife and stream habitat, and protect water quality. See our Town website for information about volunteering to help!

- Vestal Highway Superintendent, Craig Hiller, announced that the Highway Department will be adding the following dates for a SPRING LEAF PICKUP, April 19 – April 30, 2021. Residents: please rake your leaves to the curb but not in the street/road and our crews will be collecting them during the above listed dates. Please, no garden/plant waste, ornamental grasses, sticks or any foreign objects. It slows our process and can break down our machines.
- Supervisor Schaffer and Councilman Ellis have volunteered to pay for a sign to be made for the Vestal Farmers' market. The market will be further back in the parking lot.
- Arnold Park, Harold Moore Park, Angelo Field and Rail Trail bathrooms will re-opening on April 19th. Bathrooms will be cleaned twice a day.

ADJOURNMENT

On a motion by Councilman Fletcher, seconded by Councilman Ellis, the meeting was **adjourned at 7:22 pm**. Carried unanimously.

Approved by _____

Debra Wallace, Town Clerk

