

**Regular Vestal Town Board Meeting
APRIL 25, 2012**

**TOWN OF VESTAL
REGULAR BOARD MEETING**

7:00 PM

TOWN BOARD:

**Supervisor John Schaffer
Councilman Fran Majewski
Councilwoman Patty Fitzgerald
Councilman David Marnicki
Councilman Steve Milkovich**

**PRESENT: Supervisor John Schaffer
Councilman Fran Majewski
Councilwoman Patty Fitzgerald
Councilman David Marnicki
Councilman Steve Milkovich**

TOWN OFFICIALS PRESENT:

**Town Attorney David Berger
Town Clerk Emil Bielecki
Deputy Town Clerk Kathie Young
Parks Superintendent Jim Bukowski
Other community members**

The Supervisor called the Regular Meeting in the Vestal Town Board Room to order at 7:00 PM, welcomed everyone and asked that all present join in the PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

Motion by Councilman Majewski and seconded by Councilwoman Fitzgerald to accept the **Minutes of the April 11, 2012 Regular Town Board Meeting.**

Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

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BID OPENINGS:

The bids for **Highway Materials** were publicly opened in the Town Clerk's Office on April 18th, 2012 at 2:00 PM and referred to the Highway Superintendent for review and recommendation.

PRIVILEGE OF THE FLOOR (Agenda Items Only):

Speaker: How many people are involved in the Police Supervisor's Association?

Councilwoman Fitzgerald – There are seven employees – two lieutenants and five sergeants.

Seeing or hearing no one wishing to speak the Supervisor closed the Privilege of the Floor.

RESOLUTIONS & MOTIONS:

Adopt Bond Resolution - \$30,000:

Adopt
Bond
Resolu-
tion -
\$30,000

R104-12 Motion by Councilman Majewski and seconded by Councilman Milkovich to adopt A RESOLUTION AUTHORIZING THE purchase of machinery and apparatus (highway/parks department), IN AND FOR THE TOWN OF VESTAL, BROOME COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$30,000, AND AUTHORIZING THE ISSUANCE OF UP TO \$30,000 BONDS OF SAID TOWN TO PAY THE COST THEREOF.

Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

Adopt Bond Resolution - \$516,000

Adopt
Bond
Resolu-
tion -
\$516,000

R105-12 Motion by Councilman Majewski and seconded by Councilwoman Fitzgerald to adopt A RESOLUTION AUTHORIZING, SUBJECT TO PERMISSIVE REFERENDUM, THE PURCHASE OF machinery and apparatus (highway/parks department), IN AND FOR THE TOWN OF VESTAL, BROOME COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF **\$516,000**, AND AUTHORIZING THE ISSUANCE OF \$516,000 BONDS OF SAID TOWN TO PAY THE COST THEREOF.

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Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

NYSDOT Agreement - Construction and Construction Supervision and Inspection

R106-12 Motion by Councilman Majewski and seconded by Councilman Milkovich to authorize the Supervisor to sign the **NYSDOT** agreement for the **Construction and Construction Supervision and Inspection**, of the damaged on FHWA (Federal Highway Administration) roads providing the Town either 80% or 100% reimbursement of the estimated \$1,014,307.00 work. (The difference in percentage relates to permanent work or emergency work).

**NYS
DOT
Agree-
ment**

Councilman Marnicki – Who will do the inspections?

Supervisor Schaffer will find out and get back to the Board.

Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

State Marchiselli Program-Aid Eligible Transportation Federal-Aid Project:

R107-12 Motion by Councilman Majewski and seconded by Councilwoman Fitzgerald to approve the Resolution regarding the implementation and funding of a **State “Marchiselli” Program-Aid eligible transportation Federal-aid project**, to fully fund the local share of federal and state-aid eligible and ineligible project costs and appropriating funds therefore, regarding the **Project for the Storm of September 7-11, 2011**, in the Town of Vestal, Broome County, **P.I.N. 9L9910**, (“the Project”), eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds.

**Resolu-
tion for
Fund-
ing of
Project**

Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

Adopt Agreement with VPSA:

R108-12 Motion by Councilman Majewski and seconded by Councilwoman Fitzgerald approving the April 19, 2012 Tentative Agreement between the Town of Vestal and the **Vestal Police Supervisors Association** and authorizes the Town Supervisor to sign the resulting collective bargaining agreement.

**Adopt
VPSA
Agree-
ment**

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A summary of the agreement follows:

**Adopt
VPSA
Agree-
ment**

Duration:	3 year agreement 1/1/11 – 12/31/13	
Wage Increase:	Effective 1/1/11	1%
	Effective 1/1/12	2.5%
	Effective 1/1/13	2.5%
Shift Differential:	Effective 1/1/12	increase by \$.15
	Effective 1/1/13	increase by \$.10
Longevity:	Effective 1/1/12	increase each step by \$25
	Effective 1/1/13	increase each step by \$25
Clothing Allowance:	Effective 1/1/12	increase by \$100
	Effective 1/1/13	increase by \$200
Personal Leave:	No longer tied to bereavement leave	
Re-write with restrictions		
Health Insurance:	Effective 5/1/12	PPO H

In addition to the above, there will be wording changes to eliminate out dated language and correct errors.

The Vestal Police Supervisors Association has met and ratified the agreement.

Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

**Comp.
Secur.
Breach
Notif.
Policy**

Adopt Computer System Security Breach Notification Policy:

R109-12 Motion by Councilman Majewski and seconded by Councilman Milkovich to adopt a **Resolution Adopting Computer System Security Breach Notification Policy as amended:**

WHEREAS, New York State Technology Law Section 208 establishes procedures to be followed to notify affected individuals in the event of a breach of a computer security system and requires municipalities to adopt a notification policy or local law consistent with these procedures;

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NOW, THEREFORE, BE IT RESOLVED, that the attached *Town of Vestal Computer System Security Breach Notification Policy* is hereby approved and adopted as the Town's official policy; and be it

**Comp.
Secur.
Breach
Notif.
Policy –
Cont.**

FURTHER RESOLVED, that the Town Supervisor and Town Board are hereby authorized and directed to take such actions as may be necessary to implement the Policy; and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately.

**TOWN OF VESTAL COMPUTER SYSTEM SECURITY BREACH
NOTIFICATION POLICY PURPOSE**

This Computer System Security Breach Notification Policy is intended to alert individuals to any potential identity theft as quickly as possible so that they may take appropriate steps to protect themselves from and remedy any impacts of the potential identity theft or security breach. This Policy is consistent with and adopted pursuant to New York Technology Law Section 208.

DEFINITIONS: The following terms have the following meanings:

(a) "Breach of the security of the system" means unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality or integrity of personal information maintained by the Town. Good faith acquisition of personal information by an employee or agent of the Town for the purposes of the employee or agent is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, the Town may consider the following factors, among others:

(1) Indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or

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Breach
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Policy –
Cont.**

- (2) Indications that the information has been downloaded or copied; or
- (3) Indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.

(b) "Consumer reporting agency" means any person or entity which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of consumer reporting agencies may be obtained upon request to the State Attorney General.

(c) "Department" means any board, division, committee, commission, council, department, public authority, public benefit corporation, office or other governmental entity performing a governmental or proprietary function for the Town.

(d) "Personal Information" means any information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify that person.

(e) "Private information" means personal information in combination with anyone or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:

- (1) Social security number;
- (2) Driver's license number or non-driver identification card number; or
- (3) Account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.

"Private information" does not include publicly available information that is lawfully made available to the general public from Town records.

(f) "Town" means to be Town of Vestal, County of Broome

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Policy –
Cont.**

1. DISCLOSURE OF BREACH TO AFFECTED PERSONS. Any Town Department that owns or licenses computerized data that includes private information must disclose any breach of the security of the system to any individual whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in paragraph 5 below, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. The Town shall consult with the State Office of Cyber Security and Critical Infrastructure Coordination to determine to be scope of the breach and restoration measures.

2. DISCLOSURE OF BREACH TO OWNER OR LICENSEE. If the Town maintains computerized data that includes private information which the Town does not own, the Town must notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the private information was, or is reasonably believed to have been, acquired by a person without valid authorization.

3. PERMITTED DELAY. Notification pursuant to this Policy may be delayed if a law enforcement agency determines that notification could impede a criminal investigation. The notification must be made after the law enforcement agency determines that notification would not compromise any criminal investigation.

4. METHOD OF NOTIFICATION. The required notice must be directly provided to the affected individuals by one of the following methods:

(a) Written notice

(b) electronic notice, provided that the person to whom notice is required to be provided has expressly consented to receiving notice in electronic form and a log of each electronic notification is kept by the Town; and provided further that no person or business may require a person to consent to accepting notice in electronic form as a condition of establishing any business relationship or engaging Continued on Page 16 in any transaction;

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Notif.
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Cont.**

(c) telephone notification, provided that a log of each telephone notification is kept by the Town; or

(d) substitute notice, if the Town demonstrates to the State Attorney General that the cost of providing notice would exceed \$250,000 or that the number of individuals to be notified exceeds 500,000, or the Town does not have sufficient contact information. Substitute notice must include all of the following:

- (1) e-mail notice, when the Town has an e-mail address for the subject persons;
- (2) conspicuous posting of the notice on the Town's Website page, if the Town maintains one; and
- (3) notification to major statewide media.

INFORMATION REQUIRED:

Regardless of the method by which notice is provided, the notice must include contact information for the Town and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, acquired.

NOTIFICATION OF AGENCIES:

(a) Whenever any New York State residents are to be notified pursuant to this Policy, the Town must notify the State Attorney General, the Consumer Protection Board and the State Office of Cyber Security and Critical Infrastructure Coordination as to the timing, content and distribution of the notices and the approximate number of affected people. Such notice must be made without delaying notice to affected individuals.

(b) Whenever more than 5,000 New York State residents are to be notified at one time, the Town must also notify consumer reporting agencies as to the timing, content and distribution of the notices and the approximate number of affected people. Such notice must be made without delaying notice to affected individuals.

Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

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CONSENT AGENDA

Motion by Councilwoman Fitzgerald and seconded by Councilman Majewski to approve the consent agenda as follows.

Vote: Majewski, Fitzgerald, Milkovich, Marnicki and Schaffer. Nays: None.

PUBLIC WORKS: Marnicki/Milkovich

Advertise Bids for Cured In Place, Point Repair, Resin Kits:

R110-12 Authorization for the **Town Attorney to advertise for bids on Cured in place, point repair, resin kits** on May 2, 2012 with bid opening on May 16, 2012 at 2:00pm.

Adv.
Bids for
Cured
In
Place,
Point
Repair,
Resin
Kits

FINANCE: Majewski/Marnicki

Receive and File:

- ◆ **Warrants:** - 2012- 14, 16, 15, 16L, 15F, 16F
- ◆ **Comptroller's Monthly Report** – March 2012

EMPLOYEES: Fitzgerald/Marnicki

Amend Motion to Hire Simonik:

R111-12 Authorization to amend **R086-12** to read as follows:

Allow the Police Chief to replace an outgoing police officer by **hiring Nicolas Simonik**, a transferring officer, at a **base salary of \$61,927** (top rate) **pursuant to the collective bargaining agreement with the Police Benevolent Association effective 4/16/12.**

Hire
Simon-
ik

PUBLIC SAFETY: Majewski/Fitzgerald:

Advertise Bids for Firefighter Protective Clothing:

R112-12 Authorization from the Board of Fire Commissioners for the **Town Attorney to advertise for competitive bids on Lion Apparel's Janeville V-Force Firefighter Protective Clothing** on May 2, 2012 to be opened on May 14th at 2 pm in the Town Clerk's office.

Advert.
Bids
Fire
 Protec-
tive
Gear

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Fire Training:

Fire
Train-
ing

R113-12 Approval from the Board of Fire Commissioners for the following
Fire Training:

- a) **FF Phil Walter** to attend NYS Outreach Course Truck Company Operations starting April 30 at West Corners.
- b) **12 Members** to attend the Pipeline Safety Class Monday May 14 at Holiday Inn Arena.
- c) **Capt Charles Paffie and Asst Chief John Paffie** to attend Wildland Fire Suppression at Port Dickinson Monday June 4.

There are no costs associated with the above class only for VFBL Coverage.

Accept
Shelby
Frisbie
– Junior
Mem-
ber

Accept Shelby Frisbie as Junior Member:

R114-12 Approval from the Board of Fire Commissioners to accept **Shelby Frisbie as a Junior Member** of Station 2 Fire Department.

RECEIVE AND FILE:

- ◆ **Broome County Legislature Agenda** – April 26, 2012
- ◆ **Notice of New Application for the Sale of Wine and Beer** – Best Choice Baking Company, Inc.
- ◆ **Fire Advisory Board Meeting Minutes** – March 20, 2012

END OF CONSENT AGENDA

COMMITTEE CHAIR COMMENTS AND UPDATES:

Councilman Marnicki - We had a nice meeting last night for those who were eligible for the **FEMA buy out**. People were very appreciative of the efforts of our Code Department.

Supervisor Schaffer – We are very happy with the hard work of Code Enforcement and the Assessor’s Office.

Councilman Milkovich – **Coal House Update** - An RFP will be going out. We have estimates on the final work needed and will be bring the figures to the Town Board at the April 30th, 2012 Monday Night Work Session. We think it will be very

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positive for our community. We hope to have a vendor in by July 4th, 2012 and the seconded floor occupied by the end of the year. It is very good news.

Councilman Majewski – He will make a motion at the April 30th Monday Night Work Session to accept a proposal from Hueber-Breuer Construction in the amount of \$15,800 to a perform a study of a long term replacement plan for Fire Station 4, which may include EMS and the Vestal Police. It is hoped that because these facilities were affected by the 2011 flood that mitigation will be paid accordingly – 75% by FEMA, 13% by the State and 12% by the Town. It is possible that the Town will get a get a 10 million facility with the help of these monies. This is very big for our area. We need the approval by May 1st to get the funding. He hopes the Board will back him.

Councilman Milkovich – Our Comptroller. Laura McKane, has been looking into implementing an internship program through Binghamton University.

Councilman Majewski read the following from Vestal Police Chief John Butler:

*Vestal Police Chief John Butler would like to thank the **BAE Corporation** for its continued support of the Vestal Police Department and the citizens of the Town of Vestal. The company, through its community assistance program managed by Steve Kraley, has donated a total of five cardiac defibrillators which are being utilized on a daily basis by Vestal Police Officers. These units have been successfully utilized in order to save lives by officers assigned to the road patrol. In fact, one of these units saved the life of a man who suffered cardiac arrest on the Rail Trail.*

BAE has also generously donated a total of \$1,000.00 each year, which is used for special equipment purchases and for specialized youth training initiatives such as the high school and middle school Resource Officer Program and the juvenile unit. These initiatives would not typically be financed out of the departmental budget.

SUPERVISOR'S ANNOUNCEMENTS:

- ◆ A Public Hearing will be held on **May 9, 2012** regarding the ***Petition for the Establishment of Consolidated Water District Extension 190*** –

Petitioner: **John Milton**

B.C.T.M.P.: 206.09-2-32

Address: 423 West Hill Road

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- ◆ **2012 Vestal Appliance Pickup Dates** - The Town of Vestal will collect appliances and scrap metal on two Saturdays in May.

Appliance
Pickup

EAST of 26 - May 12th
WEST of 26 and All of Vestal Road - May 19th

Taylor Garbage will pick up appliances and scrap metal less than 8 feet in length. The company will not pick up refrigerators, air conditioners, freezers or other appliances with Freon. To **schedule a pickup**, call the Town Engineering Department at **786-0980, ext. 202**. (Leave a message.) All items should be on the roadside by 7 a.m. on the pickup date.

- ◆ **Department of Environmental Conservation has an Open Burning Ban** policy in place from March 16th to May 14th. Burn permits will not be issued during this time.

Ban on
Open
Burning

- ◆ **Vestal Brush Pickup – 3rd Fridays of the Month**

Brush
Pickup

- Branches must be piled neatly at curb/roadside all in one direction facing the road, not in the street.
- Leave branches as long as possible
- Branch diameter limit is 6"
- NOT ACCEPTABLE: Tree trunks, vines, lot clearings, or work done from a contractor.
- ABSOLUTELY NO LAWN CLIPPINGS OR THORNY BRUSH.

- ◆ **Fire Station 1** to hold a fundraising **Chicken BBQ on Saturday June 2, 2012** from 12:00 until sold out at the Tractor Supply Parking lot.

ADDITIONAL PUBLIC COMMENTS:

Speaker: There is still a request for the Vestal Town Board to hold a public information session concerning hydrofracking and drilling. People need to have information upon which they can make a decision.

Councilman Marnicki – If such a meeting occurred we would only be a host/moderator. Every one will have equal time and we would need to set a time limit. If one side does not come, then it would not happen.

Councilman Milkovich – He would like the meeting to only be based on technical data.

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Councilman Majewski – He agrees with both opinions. He will not say no to any one who would like to speak on this.

Councilwoman Fitzgerald – We should hold this meeting. These are our taxpayers and they should have a voice.

Supervisor Schaffer – This will be discussed at the next work session. We will need to gather details such as who will pay for the venue.

- VERSE will be holding a meeting at the Vestal Library at 7:30 pm on April 30th. She hopes the Board Members will attend.
- The gas coalition announced that they are holding a public forum on May 10th at the Clayton Avenue School that will include everyone. There will be a mass communication. This is not a debate this is a lecture. There will be no questions. The entire community is invited. They will not be involved in a public debate.

Speaker: Public forums are very difficult to control no matter what rules are made. He does not want this put on display for the media. The pro drilling coalition will not be a part of any forum. The drilling industry is the first industry that has shown an interest in this area in a long time. We need to work with them. The tax revenues will help the Town. This is a great opportunity for this area. Everyone will benefit – not just the landowners.

Councilman Majewski – He wants to apologize. We should not be forcing the sides to both come to a meeting with out asking them.

Supervisor Schaffer – If we cannot work this out we will not have a meeting. The Board is trying to be objective.

Councilwoman Fitzgerald – She has visited the *Kings Wells* in Pennsylvania. The drilling company has been very generous in their support of the local fire company. She and Councilman Marnicki are visiting areas in Pennsylvania and are taking tours. It is the council people's job. She would like the people who are *anti fracking* to go the May 10th meeting at Clayton Avenue.

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Speaker: Has home on West Hill. If something goes wrong, he will lose everything. Who will compensate him if his well goes? There are no guarantees. He is concerned.

Councilwoman Fitzgerald noted that there is a home on Benita Boulevard that had a contaminated well. The cause was the fertilizer being used by the African Road School. There are many reasons why wells go bad.

Speaker: He would like the drainage on West Hill to be addressed. The Town has done a great job keeping the roads clear.

Supervisor Schaffer will look at this area and contact him.

ADJOURNMENT:

Motion by Councilman Marnicki and seconded by Councilman Majewski to adjourn.

Vote: Ayes: Majewski, Milkovich, Marnicki, Fitzgerald and Schaffer. Nays: None.

The time was 8:08 PM.

Approved by _____
Emil Bielecki, Town Clerk