

**Regular Meeting of the Vestal Town Board  
June 13, 2012**

The Regular Meeting of the Town Board of the Town of Vestal, County of Broome and the State of New York was held at the Town Hall, 605 Vestal Parkway W, Vestal, NY on June 13<sup>th</sup> , 2012

**TOWN BOARD PRESENT:**

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

**ALSO ATTENDING:** Town Attorney David Berger, Town Clerk Emil Bielecki, 1<sup>st</sup> Deputy Town Clerk Kathie Young and approx. 30 members of the community.

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**

On a motion of Councilman Marnicki, seconded by Councilman Milkovich, the following resolution was

**ADOPTED** Ayes 5      Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
                 Nays 0

Resolved the Minutes of the Regular Meeting on May 23, 2012 are approved.

**BID OPENINGS**

**Bid Results - Cured in Place, Point Repair, Pipe Repair (CIPP) Resin Kits**

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the following single bid which was received and opened in the Town Clerk's Office on June 7, 2012, for **Cured in Place, Point Repair, Pipe Repair (CIPP) Resin Kits** on behalf of the Town of Vestal Sewer Department:

**FN ENVIRONMENTAL**

181 Bay Village Drive, Rochester, NY

**Item 1**

24" Length

8" Resin Kit

Estimated Quantity..... 200.

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Bid Price:		\$ 420.00	Per unit each
or	Quantity discount	\$ 399.00	Per unit each
		Quantity to purchase for discount	60*

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**Item 2**

24" Length			
10" Resin Kit	Estimated Quantity.....	50.	
Bid Price:		\$ 480.00	Per unit each
or	Quantity discount	\$ 456.00	Per unit each
		Quantity to purchase for discount	36*

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**Item 3**

24" Length			
12" Resin Kit	Estimated Quantity .....	20	
Bid Price:		\$ 600.00	Per unit each
or	Quantity discount	\$ 570.00	Per unit each
		Quantity to purchase for discount	36*

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**Item 4**

48" Length			
8" Resin Kit	Estimated Quantity.....	50	
Bid Price:		\$ 600.00	Per unit each
or	Quantity discount	\$ 570.00	Per unit each
		Quantity to purchase for discount	36*

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**Item 5**

48" Length			
10" Resin Kit	Estimated Quantity.....	50.	
Bid Price:		\$ 660.00	Per unit each
or	Quantity discount	\$ 627.00	Per unit each
		Quantity to purchase for discount	30*

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**Item 6**

48" Length			
12" Resin Kit	Estimated Quantity.....	50.	
Bid Price:		\$ 720.00	Per unit each
or	Quantity discount	\$ 684.00	Per unit each
		Quantity to purchase for discount	30*

**\*Free Freight Allowance is \$3,500.00 or more.  
Anything under \$3,500.00 customer is subject to pay freight.**

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**Bid Results - Firefighter Protective Clothing**

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the following bids which were received and opened in the Town Clerk's Office on June 7, 2012, for and on behalf of the Vestal Fire District:

**Lion Apparel's Janeville V-Force Firefighter Protective Clothing**

<u>Bidder</u>	<u>Full Turnout Set</u>
<b><u>Har-Rob Fire Apparatus</u></b> 338 Stein Drive Endicott, NY 13760	<b>\$2,134.44</b>
<b><u>Fire-End &amp; Croker Corporation</u></b> 7 Westchester Plaza Elmsford, New York 10523	<b>\$2,047.20</b>

The law requires that this gear be replaced every 10 years.

**PUBLIC HEARINGS**

**Public Hearing – Establish Consolidated Water District Extension #190**

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the Public Hearing concerning 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**

He then opened the Public Hearing.

Seeing or hearing no one wishing to speak the Supervisor closed this Public Hearing.

**Establish CWD Extension #190**

**R149-12** On a motion of Councilman Milkovich, seconded by Councilwoman Fitzgerald, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0

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Resolved the establishment of **Consolidated Water District Extension #190 (Petitioner: John Milton, B.C.T.M.T. 206.09-2-32, 423 West Hill Rd.)** is approved.

### **Public Hearing - Local Law "A" of the Year 2012**

The Supervisor offered *Proof of Posting* and *Affidavit of Publication* regarding the Public Hearing for **Local Law "A" of the Year 2012** regarding the request by the **Matco Group** to rezone the present Newman building located at **3401 Shippers Road**, BCTMP # 158.10-2-9 and 158.10-2-29.111 (portion of) to C-2 allowing the existing building to be renovated into a medical building which is not a permitted use under I zoning or with a special use permit.

The Supervisor then opened this Public Hearing.

Eric Webb was present to represent the Matco Group and to present the plans for this property. He submitted the **239 l&m** from Broome County Department of Planning & Economic Development and there are no significant issues raised by this project. The *Affidavit of Mailing* was submitted as well.

Both parcels shall be combined when the sale goes through. The existing building will be remodeled for the Lourdes Medical Offices and has received Planning Board approval. Lourdes will not be taking the whole building. There are no major changes to this site.

Councilman Milkovich asked if this building will be taken off the tax rolls.

Mr. Webb was not sure at this time. The donation of the old railroad land on this property may be something that will be considered.

Seeing or hearing no one else wishing to speak the Supervisor closed this Public Hearing and stated that this proposed local law will be discussed further at the next Work Session.

Mr. Webb will attend the Work Session on June 25, 2012 to answer and further questions the Board may have.

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### PRIVILEGE OF THE FLOOR (Agenda Items Only)

Speaker: asked for an explanation of the bills that are on the Consent Agenda.

Councilman Majewski explained that one bill is for the Town Attorney for litigation that the Town is involved in. The other is for an Article 7 settlement where homeowner sued the Town regarding their assessment. Another is for legal services regarding a lawsuit.

Speaker: Feels that these bills are the result of our ill-conceived assessment. We have become a milking cow for law firms. It would have been easier to settle these suits years ago. Also, wants an audit on the Coal House and Candlehouse.

Supervisor Schaffer responded changes have been made since he came into office and we are making progress. Our bills for legal expenses are an unavoidable part of defending the Town.

Speaker: Did not like the way the Town Attorney responded to a request for information about lawsuits against the Town.

A speaker asked about the possibility using the minutes to answer questions which were unanswered at previous meetings. Supervisor Schaffer said he would look into it.

### RESOLUTIONS & MOTIONS

#### Award CIPP Resin Kit Bids

**R150-12** On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0

Resolved to award the bid for **Cured in Place, Point Repair, Pipe Repair (CIPP) Resin Kits** to single bidder **FN Environmental Pipe Patch**, 181 Bay Village Drive, Rochester, NY and to authorize the **Town Attorney to draw the necessary paperwork** awarding this bid.

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**Approval for Highway to Auction Equipment and Purchase General Purpose Bucket**

**R151-12** On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0

Resolved to authorize the **Highway Superintendent** to dispose through an auction, pieces of equipment listed in his memo dated June 7<sup>th</sup>, 2012 and authorizing the **transfer of up to \$5,000 from the proceeds of the sale to repair line D5130-4230**, a portion of which may be used for the **purchase of a General Purpose Bucket for IT28G**.

**CONSENT AGENDA**

On a motion of Councilman Marnicki, seconded by Councilman Majewski, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0

Resolved the Consent Agenda is approved as follows:

**PUBLIC WORKS: Marnicki**

**Cemetery Maintenance-Vestal Center, A. Bielecki**

**R152-12** Authorization for the **Town Attorney** to prepare and the **Supervisor to sign** a contract with **Adam Bielecki**, residing at 309 Vestal Rd., Vestal NY, to provide **maintenance at the abandoned Vestal Center Cemetery** for the year 2012 at **\$750.00**.

The maintenance of abandoned cemeteries is a statutory obligation of the Town and is a budgeted item under line A8810-4060.

**Advertise Bids for 2 Dump Bodies**

**R153-12** Authorization for the **Town Attorney to advertise** for bids on June 20, 2012 for **small equipment (2 dump bodies) for the Highway Department** to be opened on June 28, 2012 at 2:00 pm in the Town Clerk's Office.

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**Approval to Reduce Sewer Bill – Kadlecik**

**R154-12** Approval for the Business Office to **reduce the sewer portion** of the **sewer billing** for **Richard Kadlecik** for the property located at 452 Echo Road in the amount of \$169.50 (50,000 gallons).

**FINANCE: Majewski/Marnicki**

**Receive and File**

- ◆ **Warrants:** 2012- 21, 22
- ◆ **Town Clerk Monthly Report** - May 1, 2012 – May 31, 2012 – Local Shares Remitted **\$7,786.18**
- ◆ **Comptroller’s Monthly Report – May 2012**

**Town Attorney Billable Hours**

**R155-12** Approval to pay the **Town Attorney billable hours** for the month of May 2012 in the amount of **\$4700.00**.

**Legal Fees – Hickey & Gates re: Williams**

**R156-12** Authorization to pay **Hickey & Gates** for legal fees regarding P. **Williams Vs Genie Industries, NES equipment VS Town of Vestal** for the invoice period February 16, 2012 through May 15, 2012 in the amount of \$2030.25. (After paying this invoice, the total legal fees for this case will be \$21,615.61.)

**Article 7 Settlement - Kirsch/Rupp**

**R157-12** Authorization for the **approval of settlement** of ***Kirsch/Rupp v Town of Vestal***, Broome County Index # 2011-1943, regarding the Article 7 tax certiorari litigation for the property located at 60 Brown Road Tax Map #191.01-2-4, and the Town Attorney and Business office are directed to take all necessary steps to implement this resolution.

**Appraisal Proposals Approved**

**R158-12** Approval of proposals for appraisals submitted by **Congdon and Company, Inc.** in connection with tax certiorari litigation regarding **3112 Vestal Parkway E; and for 221 Sycamore Road**, Vestal NY, each appraisal for \$4450.00. The Town attorney is authorized to sign the proposal on behalf of the Town.

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**EMPLOYEES: Fitzgerald/Marnicki**

**Donna Carlini Hired as Highway Secretary**

**R159-12** Retroactive authorization for **Highway Superintendent** Brock Leonard to **hire Donna Carlini**, effective June 11, 2012 at a starting pay rate of \$13.16 per hour, CSEA Grade 3.

**Joseph Gallagher Hired as Court Attendant**

**R160-12** Retroactive authorization for the **Court** to **hire Joseph Gallagher** as a **Court Attendant** effective June 5, 2012 at the rate of \$40.00/night.

**Samuel Warner Hired Seasonal Water**

**R161-12** Authorization for the **Water & Sewer Superintendent** Scott Groats to **hire Samuel Warner** as a seasonal employee effective June 18, 2012 at the rate of \$8.25/hour.

**Virginia Wood and Dai Newman Appointed - Museum**

**R162-12** Authorization to appoint **Virginia Wood** to the part-time CSEA position of *Museum Director* at a pay rate of \$9.75 per hour effective June 1, 2012 and **Dai Newman** to the part-time position CSEA position of *Museum Curator* at a rate of \$8.77 per hour effective June 1, 2012.

**Michael Weston Hired Seasonal Parks**

**R163-12** Retroactive authorization for the Parks Superintendent to **hire Michael Weston** as a seasonal employee as of May 17, 2012 at the returning summer help rate of \$8.50.

**PLANNING & ZONING: Marnicki/Fitzgerald**

**Advertise Public Hearing re: Rezone 3456 VPE**

**R164-12** Authorization for the **Town Attorney** to draw the **Local Law** regarding the request to amend the zoning map of the Town of Vestal by rezoning 3456 Vestal Parkway East BCTMP #158.12-3-2 from RA-One Family to TO (Transitional Office), and to **advertise on June 27<sup>th</sup>** for a for a **Public Hearing to be held on July 11<sup>th</sup>, 2012.**



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**PUBLIC SAFETY: Majewski**

**Police Department – Asset Forfeiture Line**

**R165-12** Approval for the Police Department to purchase the following equipment out of budget line - Asset Forfeiture A3120-2626R:

Nikon Digital Camera (8)	\$2679.92
Memory Card (8)	\$ 239.92
Memory Card Reader (4)	\$ 59.96
Sony Camcorder (4)	\$2199.96
Stop Stix (6)	\$ 718.20
Wireless Controller (8)	\$ 199.92
Sony Headphones (8)	\$ 639.92
IO Gear Video Card	\$ 78.95

**Total \$6816.75**

**Police – Repair Vehicle**

**R166-12** Approval for the repair of the water damage received in the 2011 flood to the inside of a vehicle, seized by and now owned by, the Police Department. The value of the vehicle is approximately \$11,000. The payment of **\$3604.00** will go to **J&R Upholstery** with funding to come out of line A3120-2626R.

**Lease Fire Training Site to Monroeton Hose Company**

**R167-12** Authorization from the Fire Commissioner has to accept the following lease for the **Fred Singer Training Site**:

**Monroeton Hose Company of Monroeton, PA**

This lease shall be for the 23<sup>rd</sup> day of June of 2012 at the amount of \$100 for site rental.

**RECREATION**

**Hire Summer Recreation Employees**

**R168-12** Authorization for the **Recreation Director to hire** the following Summer 2012 employees per her memo dated June 5, 2012.

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All employee pay rates are budgeted items in the 2012 budget and the background checks have been completed. Request Town Board approval to hire the following employees.

### **A7310.1021 Labor – Playground Instructors**

Lauren Gates Vestal as Playground Instructor at Pay rate \$7.25/hr.  
Danielle Ruggiero Vestal as Playground Instructor at Pay rate \$7.25/hr.  
Nekysa Savojbolaghchilar Vestal as Playground Instructor at Pay rate \$7.25/hr.  
Lindsey Stout Vestal as Playground Instructor at Pay rate \$7.25/hr.  
Jaisen Clark Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.  
Abigail Eckert Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.  
Jonathan Edwards Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.  
Ann Moring Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.  
Alyssa Mullins Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.  
Jackie Rice Vestal as Substitute Playground Instructor at Pay rate \$7.25/hr.

### **A7180.1020 Labor – Labor Lifeguards**

**Note** – Jeff Klein was approved May 23, 2012 (R148-12) at the wrong pay rate (typo by Recreation). He is a Lifeguard/Swim Instructor and the correct pay rate is \$8.75. Request approval for Jeff retroactive.

Jeffrey Klein Apalachin as Lifeguard/Swim Instructor at Pay rate \$8.75/hr.

### **RECEIVE AND FILE**

- Letter dated May 31, 2012 – Harold J. Barend – 901 Imperial Drive, regarding Ground Water
- NYS DEC – Inactive Hazardous Waste Disposal Site Delist Notice – May 31, 2012
- Office of Broome County Legislature – Meeting Schedule for June 21, 2012
- Vestal Historic Preservation Commission – May 25, 2012 – Update on the Commission's Actions
- Fire Advisory Board Meeting Minutes – April 16, 2012

**END OF CONSENT AGENDA**

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### COMMITTEE CHAIR COMMENTS AND UPDATES

Councilman Marnicki has spoken with Town Assessor Mark Minoia and we are again at a final State equalization rate of 100%.

### SUPERVISOR'S ANNOUNCEMENTS

- ◆ Thursday, **June 14<sup>th</sup>** is **Flag Day** - There will be a ceremony at 6:00 PM at the Gazebo.
- ◆ **Vestal Brush Pickup – 3<sup>rd</sup> Fridays of the Month**
  - 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.

Supervisor Schaffer: We had a very successful tire pickup last Saturday.

Councilwoman Fitzgerald would like the Board to consider moving the Town Board Work Sessions to 5:30 pm and the Town Board Meetings to 6:00 PM for the months of July, August and September.

### Meeting Hours Changed for July, August and September, 2012

**R169-12** On a motion of Councilwoman Fitzgerald, seconded by Councilman Marnicki, the following resolution was

**ADOPTED** Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer  
Nays 0

Resolved the change to the start of the **Town Board Work Sessions to 5:30 PM** and the **Town Board Regular Sessions to 6:00 PM** for the months of July, August and September is approved.

### ADDITIONAL PUBLIC COMMENTS

Comments concerning gas drilling/hydrofracking:

- Governor Cuomo would like to leave gas drilling up to the Towns. Drilling would be permitted only in Towns that agree to it.
- Request for the Board to consider a moratorium now that it appears the State will allow municipalities to make decisions on drilling.
- Concern about methane gas migrating into our wells --- the Town should test for methane to establish a baseline.

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- Diesel exhaust has been now been classified as a carcinogen.
- The Board should have more open discussions about gas drilling during Work Sessions.
- Concerns about dumping wastewater and sludge --- there are known carcinogens in the waste water.
- The Town should not fear litigation costs in implementing a moratorium now that several Courts have ruled that Towns have that right.
- We should not be afraid of hydrofracking. Environmental studies have judged the Dimmock Hill, Pennsylvania water to be safe and it will be safe here.
- The Board needs to consider the many financial and economic benefits that would come from gas drilling.
- The Board is doing the right thing in waiting for the DEC to issues their findings and regulations.
- The Board has 4 choices: do nothing; put a moratorium in place; put a ban in place; pass a resolution stating that we are waiting for the state and will follow their lead. We are a depressed area that would benefit from the ad valorem tax. The Board should make some decision to clarify our position. Doing nothing may jeopardize our ability to take advantage of the benefits that would accrue to Vestal from gas drilling.
- The Board should be proactive, not reactive on the gas drilling issue. Being reactive is not good leadership and is a sign of weakness.
- There is concern about the risk that gas drilling poses to the recharge of the water aquifer and also about vapor infusion into homes like has happened in Endicott.

Supervisor Schaffer: The Board is prepared. We will react as things progress. He will not put the Town in a position to be sued. Our police and fire have been trained for any emergencies regarding drilling incidents. Our Board has educated themselves. We will address all these issues as events change.

Councilman Marnicki: Most towns that has passed moratoriums are not in the Marcellus Shale. The State of New York regulates gas drilling and they have placed a moratorium on hydrofracking. It would be meaningless for us to do anything at this point.

Speaker: Concerned about the quality of the work being done on South Main Street and wants details about the project. He wants to know who is doing inspections and if there are site reports.

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Supervisor Schaffer: This project is over halfway done with a completion date in early September. He will speak to the Town Engineer about the project and contact him with additional information by Friday.

Speaker: She lives on Clark Street and is appealing to the Board to adjust her water bill. She lives on Clark Street. The Water Department changed the water meter and claims that there must have been a leak but a hired plumber said there were no major leaks.

Supervisor Schaffer – The Board denied the adjustment based upon the information that was provided by the Water Department but he will look into it and provide a response.

Speaker: He is getting sewage into his street (Hawthorne) from his neighbor and wants the town to do something about it. Councilman Milkovich promised to look into it.

Speaker: Lives in Twin Orchards and would like to thank the Town of Vestal for their help during the flood. Now many of the flood damaged properties are overgrown and wonders if the Town can do something.

Supervisor Schaffer: The Town is exploring various options to address this problem.

Councilman Marnicki – He would like to see some of the people who live there assist in the upkeep and mowing of these lots. He hates to see the people who were hurt by the flooding get fined by our Code Department.

Speaker:

- He believes that we are spending money that we don't have.
- We shouldn't be hiring.
- We should not pay Council people when they are absent.
- We are paying too much in legal fees.
- Feels that his comments are not fully reflected in the minutes.
- Would like a comprehensive financial annual report.

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**ADJOURNMENT**

On a motion of Councilman Marnicki, seconded by Councilwoman Fitzgerald, the meeting was adjourned at 9:09 PM. Carried unanimously.

Approved by \_\_\_\_\_  
**Emil Bielecki, Town Clerk**