

Regular Meeting of the Vestal Town Board
JUNE 27TH, 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 27th , 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, 1st Deputy Town Clerk Kathie Young, Broome County Executive Debbie Preston, BC Commissioner of Economic Development and Planning Elaine Miller, Vestal Town Crier - Rosemary West, and approximately 70 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:

The Supervisor asked for a Moment of Silence for the passing of Vestal resident Bill Oliver, a 57 year member of the Vestal Fire Department and past Department Chief from 1969 to 1961.

John Gardner from the Vestal Elks presented the Town with a flag flown on Flag Day. He wanted thank the Town Board for attending the tribute at the Gazebo.

Supervisor Schaffer expressed concern with the lack of decorum at recent Town Board meetings. He wants the discussion to focus on town business. He wants the speakers to only address the Board. If speakers have written information for the Board, they should keep it short with a synopsis. Personal attacks are unacceptable. The Board is working on a Resolution establishing reasonable rules and regulations for public conduct at the meetings.

Supervisor Schaffer introduced **Broome County Executive Debbie Preston**, welcomed her to Vestal, and invited her to address the Board and the audience.

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In a brief presentation, Broome County Executive Debbie Preston noted that she is attending board meetings in every municipality in the County to share information about what she is working on. She highlighted the following items:

- Supports returning to a 50/50 sales tax distribution split with the towns
- Is holding quarterly meetings with mayors and supervisors
- Cut salaries of department heads and staff by 5% and reduced the number of vehicles assigned to employees
- Took away cell phones and mileage reimbursement from staff
- Increased focus on reducing welfare and food stamps fraud
- Instituted a whistle blower policy

Responding to a question about bonding, County Executive Preston stated that during the last six years, the County has increased debt by over \$30 million. To decrease the burden, her administration has been refinancing the debt to take advantage of lower interest rates and has stopped borrowing for operating expenses. We need to start saying *no* to things.

County Executive Preston introduced Elaine Miller, the County Commissioner of Economic Development and Planning. Elaine is working on many opportunities for the towns, including assistance in grant writing.

Elaine Miller spoke of the efforts to collaborate with Towns and Villages and highlighted the following activity in her office:

- Great deal of effort is being devoted to revitalize the areas hit by the 2011 flood, including the securing of grants to assist Towns with buyouts
- Working to build a County *high tech transfer incubator* in collaboration with the BC Industrial Agency and Binghamton University
- Hope to have incubator operational in three years creating an estimated 100 jobs – some high paying – in business start-ups.
- Working to start a regional farmer's market at Otsinengo Park to capitalize on agriculture, which is a big economic driver in our region.
- Would like to extend the *River Trail System* to link downtown Binghamton with the Binghamton University campus in Vestal.

APPROVAL OF MINUTES

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

ADOPTED Ayes 5 Majewski, Fitzgerald, Milkovich, Marnicki, Schaffer

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Nays 0

Resolved that the Minutes of the Regular Meeting on June 13, 2012 are approved.

PRIVILEGE OF THE FLOOR (Agenda Items Only):

Speaker: Expressed concern about the litigation expenses regarding Candlehouse. This is taking more money out of our pockets. This is a cause that we cannot win. Are we going to spend unlimited amounts of money on this? This is a pattern of spending money that we don't have.

RESOLUTIONS & MOTIONS:

Certificate of Necessity

Supervisor Schaffer stated that at the Monday Night Work Session, the Board expressed a desire to vote on the proposed **Local Law A** to rezone 3401 Shippers Road at this Regular Meeting.

So as to accommodate the wishes of the Board and to recognize the need of the developer to proceed with the planned project as soon as possible, he is invoking a *Certificate of Necessity* to waive the requirement that this Local Law be in front of the Board in final form for seven days prior to passage.

Supervisor Schaffer advised that a local law passed immediately upon *certificate of necessity* requires a two-thirds approving vote by the Town Board.

Negative Declaration of SEQR:

R170-012 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 following ***Negative Declaration of SEQR*** is approved:

Concerning proposed **Local Law "A" of the Year 2012 Entitled:** A Local Law Amending the zoning map by changing a portion of the premises 3401 Shippers Road, BCTMP # 158.10-2-9 and 158.10-2-29.111 (portion of) to **C-2** (Community Business) so that the existing building can be remodeled into Medical Offices. The Town Board of the Town of Vestal hereby finds and determines that:

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(a) it has considered the action, reviewed the environmental assessment form, reviewed the criteria set forth in 6 NYCRR section 617.7(c), thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential environmental impacts and their magnitude in connection with the proposed project

(b) This project will not result in any large and important environmental impacts, and, therefore, is one, which will not have a significant impact on the environment, and, therefore, a negative declaration is hereby adopted.

The Planning Board has reviewed this plan and the 230 L&M review has been received with no major issues cited.

Adopt Local Law “A” of the Year 2012 – Rezone 3401 Shippers Road

R171-012 On a motion of Councilman Marnicki, seconded by Councilwoman Fitzgerald, the following resolution was

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

Resolved to adopt **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.

Hire Daniel Williams as Director of Information Services

Councilman Marnicki - We advertised this position nationally. It came down to four candidates and Mr. Williams is our choice.

R172-012 On a motion of Councilman Majewski, seconded by Councilman Marnicki, the following resolution was

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

Resolved to **hire Daniel Williams as Director of Information Services** effective no later than August 31, 2012. Mr. Williams’ starting rate of pay will be **\$52,000 annually**. He will receive an increase of \$1000 on his 6 month anniversary date and an increase of \$1000 on his 1 year anniversary date. Mr. Williams will not be eligible for any January 1, 2013 increases, if applicable. Such appointment is subject to satisfactory result of drug testing and background check.

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CONSENT AGENDA

At the request of Councilman Majewski, the following motions were pulled from the Consent Agenda:

7.1-4 Authorization to send **FEMA reimbursement** in the amount of **\$1500.24** to the **Town of Lisle Fire Department** for assisting in the pumping efforts and use of their equipment in the September 2011 Flood.

7.2-2 Authorization to pay a voucher from **Ahmuty, Demers & McManus** in the amount of **\$15,350.20** for the period ending June 6, 2012 in the case **Candlehouse v Town of Vestal**. After paying this invoice, the total expended for this case will be **\$58,121.14**.

7.2-3 Authorization to pay a voucher from **Czerenda Court Reporting** in the amount of **\$713.00** for **Candlehouse v Town of Vestal** depositions. After paying this invoice, the total expended for this case will be **\$58,834.14**.

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 **Consent Agenda** is approved as follows:

PUBLIC WORKS - Marnicki/Milkovich

NYSDOT Agreement – Painting of the Main Street Bridge

R173-012 Authorization for the **Town Supervisor to sign the NYSDOT Agreement for the Painting of the Main Street Bridge (BIN 2225910) P.I.N. 975372** near **Glenwood Road** which provides the Town 95% reimbursement of the estimated \$343,000 in project cost.

Adopt Resolution Project for the Painting of the Main Street Bridge

R174-012 Adopt a resolution authorizing the implementation, and funding in the first instance 100% of the Federal-aid and State “Marchiselli” Program-aid eligible costs, of a transportation Federal-aid project, and appropriating funds therefore.

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WHEREAS, a **Project for the Painting of the Main Street Bridge (BIN 2225910)** over the Big Choconut Creek, in the Town of Vestal, Broome County, **P.I.N. 975372** (“the Project”) is 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; and

RESOLVED, that the **Town of Vestal Board** hereby authorizes the **Town of Vestal** to pay in the first instance 100% of the Federal and non-Federal share of the costs of the **Construction and Construction Supervision and Inspection** work for the Project or portions thereof; and it is further

RESOLVED, that the sum of **\$343,000** is hereby appropriated from **Capital Projects** and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full Federal and non-Federal share costs of the project exceeds the amount appropriated above, the **Town of Vestal Board** shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York Department of Transportation thereof, and it is further

RESOLVED, that the **Supervisor** of the **Town of Vestal** be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal-aid and/or Marchiselli-aid on behalf of the **Town of Vestal** with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality’s first instance funding of project costs and permanent funding of the local share of Federal-aid and State-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, this Resolution shall take effect immediately.

Advertise Bids for Main Street Bridge Cleaning and Painting Project R175-012 Authorization for the **Town Attorney to advertise** on July 4th, 2012 for bids for the **Main Street Bridge Cleaning and Painting Project** with the bid opening on July 30, 2012 at 2:00 PM in the Town Clerk’s Office.

Refund to Just in Time, Subway – Water/Sewer Bill Overpayment

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R176-012 Authorization to for the Business Office to issue a **refund of \$152.02** to **Just in Time, Subway** located at 3801 Vestal Parkway East, due to a double payment of their Water/Sewer bill.

Town Attorney to Advertise for Water/Sewer Bids

R177-012 Authorization for the **Town Attorney to advertise** for bids on behalf of the Water Department for a **Service Truck Utility Body** on July 4, 2012 with bids to be opened on July 23, 2012 at **2:00 PM**.

R178-012 Authorization for the **Town Attorney to advertise** for bids on behalf of the Water Department for **Clarkson Drive Sanitary Sewer Replacement** on July 4, 2012 with bids opened on July 23, 2012 at 2:30 PM.

R179-012 Authorization for the **Town Attorney to advertise** for bids on behalf of the Water Department for a **Combination Sewer Cleaner** on July 4, 2012 with bids opened on July 23, 2012 at 3:00 PM.

Parks to Hire Seasonal Employee

R180-012 Approval for the **Parks Superintendent to hire one seasonal employee** from the following approved pool to replace a seasonal worker at the rate of **\$8.25** per hour, which is the starting wage:

Brian M. Maloney

Eric Cannon

FINANCE – Majewski/Marnicki

Receive and File:

Warrants 2012-23 2012-24 2012-24B 2012-25 2012-25L

Broome/Tioga Auction

R181-12 Authorization for the Town Vestal to participate in the **Broome/Tioga Auction** on Saturday, September 29th, 2012 at the Broome County Highway Department, 47 Thomas Street, Chenango Bridge and for the **Supervisor's Office** to provide copies of the items being sent to the auctioneer as well as the Broome County Division of Purchasing by Friday, August 17, 2012.

Adopt Bond Resolution – Various Equipment

R182-012 Approval to adopt the following:

A resolution supplementing the **Bond Resolution (Orrick File: 423299-2-75)** dated May 12, 2010 to authorize the issuance of an additional **\$20,000 serial bonds**

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of the Town of Vestal, Broome County, New York, to pay part of the cost of the **purchase of various items of equipment**, in and for said town and for the **Town Attorney to publish the Legal Notice of Estoppel**.

Adopt Bond Resolution - Town Police Station

R183-012 Approval to adopt the following:

A resolution authorizing the reconstruction of portions of the **Town Police Station**, in and for the Town of Vestal, Broome County, New York maximum estimated cost of \$24,900 and authorizing the issuance of up to **\$24,900 bonds** of said Town to pay the cost thereof and for the **Town Attorney to publish the Legal Notice of Estoppel**.

Budget Transfers – Retro Pay Per Union Contracts

R184-012 Authorization to perform the **budget transfers** as requested by the Comptroller's Office in the memo dated June 19th, 2012 to cover **retro pay per union contracts**.

Budget Transfers

R185-012 Authorization to perform the **budget transfers**, effective January 12, 2012 thru June 19, 2012, as requested by the **Comptroller's Office** in the memo dated June 21, 2012.

Budget Transfers

R186-012 Authorization for the **Comptroller to perform the following Budget Transfers** as requested on June 25, 2012:

A1990.4322 to A1680.4499 in the amount of \$ 9,825.00
Explanation: SQL Licenses for Kronos Upgrade
A1011.1011 to A1680.2100 in the amount of \$20,000.00
Explanation: Air Conditioner for IT
A99001.9002 to A3120.4180 in the amount of \$ 2,800.00
Explanation: Retro Uniform Allowance

EMPLOYEES – Fitzgerald/Marnicki

A Bird to Court Clerk Training

R187-012 Authorization for **Court Clerk Andrea Bird** to attend Court Clerk in Potsdam, New York on July 24 and 25 and to transfer money from the Town Court supply line to the training line. Costs to the Town are as follows:

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- ◆ \$46.25 for two nights lodging, which includes breakfast and lunch
- ◆ Mileage or the use of a Town Car and two dinners.

PUBLIC SAFETY – Fitzgerald/Milkovich

Derek Heide Approved as Police Intern

R188-012 Retroactive approval for the **Vestal Police Department** to utilize the services of **Derek Heide** as an unpaid intern for the months of June – July pending his signing the **Town’s Volunteer Agreement form**.

New Members for Vestal Fire Department

R189-012 Authorization from the Board of Fire Commissioners approving the following **new members to Vestal Fire Department**:

- Company No 1: Stephen Langeland and Emilie Randis
- Company No 2: Christopher Forsyth
- Company No 3: Kelly Beloch

RECEIVE AND FILE

- ◆ **Vestal Historic Preservation Commission – June 18, 2012 – Notice that the following were** designated as local historic landmarks:
 - Rounds Cemetery - 144 Front Street**
 - Vestal Depot/Museum – 328 Vestal Parkway East**
- ◆ Vestal Historic Preservation Commission – Minutes of June 12, 2012 Public Hearing
- ◆ Fire Advisory Board Meeting Minutes – May 21, 2012
- ◆ Broome County Legislature Agenda – June 21, 2012

END OF CONSENT AGENDA

SUPERVISOR’S ANNOUNCEMENTS:

- ◆ For the months of **July, August and September**:
 - **Town Board Work Sessions will begin at 5:30 PM**
 - **Town Board Regular Sessions will begin at 6:00 PM** Town Board of the Town of Vestal, New York seeks sealed proposals for the construction of **Two - 10’ 304 Stainless Steel Dump Bodies**. The sealed proposals requested herein will be received by the Town

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Clerk in his office, Town Hall, 605 Vestal Parkway West, Vestal, New York 13850 until 2:00 on June 28, 2012 and all sealed proposals thus received will be publicly opened and read at the Town Clerk's Office at 2:00 PM.

Councilman Marnicki noted that the stainless dump bodies cost more upfront but are much more cost effective in the long run because they do not rust and last much longer.

ADDITIONAL PUBLIC COMMENTS:

Speaker: Has read about the work session discussion concerning cell towers and offered an article about royalties paid to municipalities hosting cell towers. There are consultant companies that specialize in negotiating this kind of activity.

Councilman Marnicki – They were talking about using light poles, which we don't own. He is not sure that this can add a great deal of revenue to the Town.

Speaker: If the Board knew that the majority of Vestal residents opposed hydrofracking, would they send that message to the Governor and would they put this to a question at the next election?

Supervisor Schaffer – The law does not allow us to put this to a vote at the polls. If the majority of Vestal people were against hydrofracking, the Board would listen. The Board is still listening.

Speaker: The Board should respond to the people who have signed petitions asking for a moratorium on gas drilling. A moratorium needs to be passed before permits are given out.

Supervisor Shaffer polled the Board members for opinions on gas drilling:

Councilwoman Fitzgerald – She is waiting for the DEC to make a decision.

Councilman Majewski – We are still waiting to hear more information on Road Usage and we are still gathering information.

Councilman Milkovich – We are looking at both sides. We are hearing from both sides.

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Councilman Marnicki – The state has not finished writing the regulations and we don't know what role the Town will play. Right now, it is not a permitted use.

Supervisor Schaffer stated that the County is also looking to adopt a road use law and we should try to join with them on a standard agreement.

In response to a question about the condition of the platform at the Turtle Tower, several Board members responded that this structure was on State property and is not the responsibility of the Town. Supervisor Schaffer said he would look into it.

Speaker: Expressed overall concern about Town spending. There are too many budget transfers with inadequate documentation. We are spending hundreds of thousands for lawsuits and bonding too much. Assessment cases should be settled more quickly to avoid excessive legal fees. He grieved his property assessment and his appeals were denied at every level. The Town spent a large amount of money on the appeals that would not have been spent if they had just lowered his assessment as he requested.

Supervisor Schaffer – Currently, we have 122 employees. Our fund balance is good. Contingency is low. We will have a tough budget this year. Quality of life is going to be an issue. The public will need to make choices. He has been working on the budget for the last two months. We are not broke. We have 6 lawsuits open and 48 assessment cases. Lawsuits are a part of running this government.

Speaker: Thanked the Board for listening to every complaint and having to tolerate occasional abusive behavior from the public. She strongly disagreed that the Town should not be defending against the Candlehouse lawsuit. People came and asked the Board to protect a neighborhood from the use of a property which is not permitted under the zoning laws. The Town should not be criticized for spending on legal fees to defend an action supported by the people.

Speaker: Wanted to know if the Town plans to test for methane gas in the water wells to establish a baseline before gas drilling starts.

Councilman Marnicki stated that our wells are in gravel, not shale, and methane gas generally does not exist in that environment. Supervisor Schaffer said that he would discuss the issue with the Water Superintendent.

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Speaker: Asked if any members of the Town Board have signed gas drilling leases.

All Board members responded that they have not signed gas leases, however Councilman Milkovich stated that he is in a gas coalition but nothing has been signed or implemented.

Approximately 10 speakers made comments about the gas drilling issue. A synopsis of the comment is as follows:

- A final decision concerning fracking needs to be made on a scientific basis.
- Any studies done on gas drilling need to be scrutinized for bias.
- The DEC should not be trusted to make a decision about whether we should or should not allow hydrofracking. They are regulators interested in mitigating, to the greatest extent, any environmental impacts.
- Studies have shown that gas drilling activity has a negative impact on housing. Section 8 subsidies increase because of the increased costs of housing.
- Banks will not invest in gas leased land.
- The Board should adopt a resolution stating that the Town is waiting for the DEC to issue the final regulations before taking any action on gas drilling.
- In a democracy majority rules. When a minority rules its tyranny.
- The Governor and the Town Board were duly elected and are making decisions in a democratic way. The economic impact of gas drilling is also important and relevant and deserves the same consideration as the environmental impact which is being addressed.
- There appears to be an effort to stifle the voices and opinions of those who oppose hydrofracking.
- The longer we wait to make a decision, the less the drillers will want to come here.

Adjournment

On a motion of Councilman Marnicki, seconded by Councilwoman Fitzgerald, the meeting was adjourned at 8:45 PM. Carried unanimously.

Approved by _____
Emil Bielecki, Town Clerk